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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

POLAND

[11 January 1994]

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* Available for consultation in the files of the Centre for Human Rights.

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I. INFORMATION ON LEGAL ACTS IN WHICH THE CHILD'S RIGHTS ARE CONTAINED

Measures taken to harmonize national law and policy with the provisions of the Convention

1. The basic source of law determining the concept of responsibility for the child and children's rights is the Constitutional Act of 17 October 1992. Article 79 of this Act is most significant for the protection of the family and the rights of the child. It provides that:

> "1. Marriage, maternity and family are under the protection and care of the Republic of Poland. Multi-children families are subject to the particular care of the State.
>
> 2. It is the responsibility of parents to bring up their children to become honest and conscious of their responsibilities as citizens of the Republic of Poland.
>
> 3. The Republic of Poland ensures implementation of maintenance rights and obligations.
>
> 4. Children born out of wedlock have the same rights as children born in wedlock.
>
> 5. Concerned about the well-being of the family, the Republic of Poland aims at the improvement of the housing situation, with the participation of citizens, develops and supports various forms of housing construction, particularly cooperative housing construction, and cares for the rational management of housing resources."

2. Article 80 provides for the State to take particular care for the upbringing of youth and ensuring the broadest development opportunities to young people:

> "The Republic of Poland takes into particular care the upbringing of young people and provides them with the broadest opportunities of development as well as creates the conditions for active participation of the young generation in social, political, economic and cultural life, developing the feeling of co-responsibility for the development of the motherland."

The above-mentioned provisions correspond to the responsibility of parents for bringing up a child, expressed in the Convention, and to the concept of State responsibility in the field of protection and care of the family and the child.

3. Poland undertakes legislative, administrative and other actions to implement the rights determined in the Convention. An appraisal undertaken by the Sejm (parliament) in 1991 determined that Polish legislation is based upon the same underlying principles upon which the Convention has been constructed

and is in conformity with the Convention's contents and requirements. No review of conformity of administrative, judicial, social and other activities has been carried out so far.

4. One of the most important legal acts, specifying provisions of the Constitutional Act and relating to the rights of the child and family protection, is the Family and Guardianship Code of 1964, in force since 1 January 1965. Work has been started to adjust the Code to the provisions of the Convention.

5. The draft law on the amendment of the Family and Guardianship Code has been elaborated and the draft law on the amendment of the Code of Civil Procedure and the International Private Law, which will once again be submitted to the newly elected Sejm. It is planned that no child would be allowed to be adopted if it resulted in changing the child's residence from Poland to another country, unless adoption by an individual resident abroad would ensure the child's upbringing in a family. It would be permissible for individuals resident abroad who are related to the child or who had earlier adopted one of the child's siblings to adopt a child.

6. The Law on procedure in juvenile cases of 26 October 1982 contains material provisions, procedural regulations and provisions concerning educational, medical and reformative measures. Thus it covers the complex of problems connected with juvenile delinquency. It is generally in conformity with the recommendations of the Convention (for example arts. 37, 40); however, it has an even broader scope than the Convention because it deals not only with juvenile perpetrators of criminal acts but also with juvenile demoralization.

7. The Convention on the Rights of the Child determines in article 29 requirements as regards directing child and youth education, expressed inter alia in: development of the child's personality, talents and abilities; development of respect for human rights and fundamental freedoms; development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, friendship among all peoples and ethnic, national and religious groups.

8. The preamble to the Education Law of 1991 recalls the principles contained in the Constitution of the Republic of Poland as well as recommendations of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, as well as the Convention on the Rights of the Child. Thus, the legislator has mentioned legal bases - both national and international - of education, including respecting the rights of the child.

9. This last aspect may be considered in two dimensions: educational policy and interpersonal relations at school.

10. In article 26 of the Universal Declaration of Human Rights we read:

"Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit."

This article is specified and developed in article 28 of the Convention on the Rights of the Child, which underlines equality meaning that implementation of the right of the child to education should respect the principle of equal opportunity.

11. These rights have been specified in the Education Law (arts. 7, 9) and in executory acts. Education in the Polish system is based upon the eight-year primary school, the completion of which is compulsory. Public schools ensure free education in the framework of curricula and implement a minimum programme of compulsory subjects which vary according to the type of school.

12. Educational reform, which is currently under way, will take into account differences in school programmes to ensure better adjustment of education contents to children's abilities and interests. The effects of such differentiation - which may be measured only after several years - will allow for evaluating in future the implementation of the educational policy as it concerns the principles of equality and democracy.

13. Young people in Poland have the opportunity to continue their education in post-primary schools, both public and non-public (secondary vocational schools, basic vocational and secondary general schools) as well as in higher schools.

14. Particular importance is attached to two provisions of the Convention on the Rights of the Child: article 16 (1), which states: "No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation"; and article 28 (2) which provides that "States parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity ...". This problem has also been reflected in the Education Law, which states that a teacher, in his/her didactic activities in providing education and care, should be guided by the pupils' interests, concern for their health and the principle of respect for the personal dignity of a pupil (art. 4). Article 55 provides for the possibility of establishing pupils' representatives, that is a pupils' self-government scheme. They are entitled to present their proposals and opinions concerning various school matters, in particular implementation of pupils' basic rights. Pupils' representatives are also allowed to participate in school boards, thus taking part in solving internal school problems.

15. The Education Law also guarantees to pupils the right to material assistance for educational purposes from public means (art. 91) and the right to the free medical and rehabilitation services of the social health service establishments (art. 92).

16. Generally speaking, Polish legislation is in harmony with the Convention's provisions. Opportunities have been also created for the development of State protection of the family and the child. Various non-governmental organizations and foundations carry out activities in favour of the child and in its interest. However, implementation of the social rights guaranteed by the legislation depends on the State social policy, which is affected first and foremost by the economic situation. In the present economic situation in Poland, where the phenomenon of societal impoverishment is evident and there is no complex social policy, the children's social rights are very much endangered.

17. These threats are proved by such facts as: the declining number of nurseries and kindergartens, the growing number of children not complying with the schooling obligation, the diminishing scope of material assistance for pupils, the reduction in the number of lessons and other school activities, the liquidation of libraries, the lack of medical facilities (equipment, medicaments) which do not allow, for example, for heart operation for all children in need, etc.

Mechanisms at the national or local level for coordinating policies relating to children and for monitoring implementation of the Convention

18. In Poland separate public administrative organs are concerned with children's health, education, sport or culture. However, no special organ deals with the complex of child's matters.

19. Representation of the child's interests is the competence of the Commissioner for Civil Rights. To act in favour of the child and the family the Office of the Government Plenipotentiary for Women and Family Affairs has been established. Refugee children's problems are dealt with by the Commissioner of the Interior Minister for Refugees.

20. Polish legislation enables implementation of social initiatives through legal recognition of associations, foundations, unions and other non-governmental institutions. Various voluntary organizations disseminate the Convention's provisions and use them as arguments in their concern for the solution of children's problems. The following voluntary organizations should be mentioned: Committee for the Protection of the Rights of the Child, Association of Children's Friends, Polish Committee for UNICEF, Committee on the Convention on the Rights of the Child, Association of the Convention on the Rights of the Child, Association of Children's Protection from Abuse. Many foundations and associations for the assistance for children have been created, starting with organizations acting in favour of particular children's needs (such as aid in sickness, promotion of abilities) and ending with the federation of pro-life movements.

21. On the basis of the achievements of the International Year of the Child and the willingness to continue activities started during the year, the voluntary movement of child's committees merged with the national committee. The National Fund for Children has also been created.

Dissemination of principles and provisions of the Convention

22. After ratification of the Convention by Poland, activities were undertaken to disseminate its text. It has been published in separate books, leaflets and newspapers and disseminated on television. A scientific symposium has been held under the auspices of the Polish Academy of Sciences concerning the conformity of the Polish legislation with the provisions of the Convention.

23. The Education Law of 7 September 1991 provides that in schools the rights of the child, as contained in the Convention, will be observed and disseminated. The Ministry of National Education published in 1992 a book for teachers titled "A Child and His/Her Rights", elaborated by the Committee on the Protection of the Rights of the Child.

24. Non-governmental organizations constantly promote the rights of the child through various publications, articles and discussions both on television and on the radio. Regular television programmes are broadcast, such as "Home lawyer" and "It is not just", which inform on the rights of the child or show examples of non-observance of the Convention. Meetings are also organized with parents, children and youth on given subjects.

II. DEFINITION OF THE CHILD

25. Polish legislation does not define the term "the child". In the legislation various terms are used, such as "conceived child", "the child", "juvenile", "minor", "young person". However, we may state that the general scope of expression "the child" determined in the Convention corresponds to the scope of this term accepted in Polish law.

26. The above-mentioned terms mean:

"the conceived child": still unborn child;

"the minor": a person under 18 years of age;

"the juvenile": a person under 18 years of age showing signs of misbehaviour and a person between 13 and 17 years of age who has committed a punishable act;

"the young person": a person between 15 and 18 years of age who may be employed on the basis of an employment contract for purposes of vocational preparation and a person under 21 years of age who has committed a crime subject to penal liability.

27. As regards legal protection of the born and unborn child, the Polish legislation corresponds to the requirements of the Convention. Article 11 of the Law of 7 January 1993 on family planning, human foetus protection and admissibility of abortion provides: "Every human being has the inherent right to life from the moment of conception. The life and the health of the child from the moment of conception are under legal protection."

28. Every human being has legal capacity from his birth. Legal personality has also been granted to the conceived child; however, he/she acquires material rights and obligations under the condition that he/she is born alive (art. 8 of the Civil Code). From the moment of birth the child may demand reparation of damages incurred before the birth (art. 446 of the Civil Code).

29. Majority is attained by a person who has reached the age of 18 years (art. 10 of the Civil Code). Majority is also attained by a woman who has reached the age of 16 years if she has entered into marriage with the consent of a family and guardianship court (art. 10 of the Family and Guardianship Code). In accordance with article 92 of the Family and Guardianship Code, the child remains under parental authority until he/she attains majority.

30. Polish legislation does not determine the age for the purpose of legal or medical counselling without parental consent.

31. "Compulsory education ends with the completion of the primary eight-year school, however not later than the end of the school year in the calendar year in which the child reaches the age of 17 years" (art. 15, para. 3, of the Education Law). "In particularly justified cases a school superintendent may release a child who has attained 15 years of age from the school obligation" (art. 16, para. 9, of the Education Law). In accordance with article 15, paragraph 4, of the Education Law, the Council of Ministers may, by Order, introduce compulsory further education (general or vocational) for youth who do not continue education after completion of a primary school or who have not completed such school. This primarily concerns voivodeships where the number of young unemployed people is particularly high. So far such an Order has not been issued because consultations have shown that the majority of superintendents oppose the introduction of such compulsory education in the territory of their voivodeship.

32. Principles of young persons' employment have been determined by the Law of 26 June 1974 - the Labour Code (Dziennik Ustaw No. 24, Text 141, with further amendments) and executory acts, i.e. the Order of the Council of Ministers of 12 December 1989 concerning vocational preparation of young persons in socialized establishments and their remuneration (Dziennik Ustaw No. 56, Text 332, with further amendments), the Order of the Minister of Labour and Social Policy of 30 December 1974 concerning vocational training and training for the performance of determined jobs by young persons in handicraft establishments (Dziennik Ustaw No. 51, Text 335, with further amendments).

33. In accordance with the Labour Code the expression "young person" means a person who has reached the age of 15 years but is not above the age of 18 years. It is prohibited to employ a person who has not reached the age of 15 years. It is only permissible to employ young persons who have completed at least their basic schooling and present a medical certificate confirming that work of a particular kind is not a danger to their health.

34. A contract of employment with the young person without vocational skills is concluded for the purposes of his/her vocational preparation, for an unspecified period. The young worker without vocational skills is obliged to

develop his skills up to the attainment of the age of 18 years. He may comply with this requirement by attending a vocational school or undergoing non-school training (courses).

35. The young person may also be employed on the basis of an employment contract for a specified period in light seasonal and intermittent work. Hours of work of the young person who is under 16 years of age may not exceed six a day. Hours of work of the young person who is above 16 years of age may not exceed eight a day.

36. It is not permissible to employ young persons on prohibited jobs prescribed by the Order of the Council of Ministers of 1 December 1990 concerning the list of jobs prohibited for young persons (Dzeinnik Ustaw No. 55. Text 500).

37. The age of starting sexual activity has not been codified, with the exception of the situation when one of the parties is under age. Sexual intercourse of an adult with a person under 15 years of age is subject to the full penal liability for adults. A minor person is not considered a co-perpetrator.

38. Marriage may be contracted by a man of at least 21 years of age and a woman of at least 18 years of age. However, the guardianship court may, for important reasons, allow for a marriage of a man who has reached the age of 18 years or a woman who has reached the age of 16 years, if circumstances show that an intended marriage will be in the interest of a new family (art. 10 of the Family and Guardianship Court).

39. Voluntary enlistment into the armed forces is governed in Poland by the Laws of 21 November 1967 on universal obligation of defence of the Republic of Poland (Dziennik Ustaw of 1992 No. 4, Text 16) and of 30 June 1970 on regular military service (Dziennik Ustaw of 1992 No. 8, Text 31). On the basis of article 58, paragraph 1, items 1 and 2, of the former, compulsory military service covers men and women (if the latter have skills suitable for military service), who are Polish citizens, starting from 1 January of the calendar year in which they reach the age of 18 years. Besides, in accordance with article 83, paragraph 2, of the Law, men recognized as liable for military service who have reached the age of 18 years and who voluntarily enlisted in the armed forces are also called up for basic military service. It should also be mentioned that, in accordance with article 91, paragraph 2, of the Law on regular military service, a Polish citizen of at least 17 years of age may be called up for military service as a candidate to be a regular soldier, if he has voluntarily enlisted. The planned amendment of the Law on universal obligation of defence proposes to remove the possibility of conscription into the armed forces of men who have not reached the age of 18 years.

40. Generally, legal provisions concerning criminal and civil procedure do not specify an age for giving testimony. In divorce cases and cases of nullification of a marriage or deciding on the existence or non-existence of a marriage, minors under 13 years of age and descendants of parties under 17 years of age may not give testimony.

41. A person who has reached the age of 17 years may be subject to criminal liability. However, a minor who after reaching the age of 16 years commits a crime against life, a crime of rape, robbery or a crime against public safety or who deliberately induces grave bodily injury or grave damage to health may be subject to criminal liability on the same basis as adults. These age limits also apply to detention awaiting trial or deprivation of liberty. Nevertheless, in certain circumstances, a court may order educational or reformatory measures against a person who has committed an offence after reaching the age of 17 years but before the age of 18 years, instead of a penal sanction.

42. A child may be a party to or participant in all kinds of civil procedures; however, he/she cannot act independently in all proceedings with legal effect. The possibility of such actions being brought depends on whether the person possesses legal capacity. A child who is less than 13 years of age does not possess such capacity at all. When he/she is more than 13 and is not totally legally incapacitated, he/she possesses a limited legal capacity in cases resulting from legal activities which may be undertaken independently by the child (art. 65, para. 2, of the Code of Civil Procedure). Under articles 20 and 21 of the Code a person with only limited legal capacity may, without the consent of his/her statutory representative, conclude agreements such as those generally concluded in minor, daily issues and may also dispose of his/her earnings.

43. In certain kinds of family or guardianship cases a child who has reached the age of 13 years possesses capacity to be a party in proceedings which concerns him/her (inter alia, in matters where parents require permission for activities exceeding the usual scope of management of a child's estate, in matters connected with banning personal contact with a child, of removing a child from parental custody). However, the court may limit or exclude the child's personal participation in such proceedings only when educational reasons justify such a decision (art. 573, para. 2, of the Code of Civil Procedure).

44. In certain matters the consent of the child who is above 13 years of age is required, for example for granting to a child, recognized by a man, of its mother's name (art. 89, para. 1, of the Family and Guardianship Code), for granting to the child its father's name in the case of establishment of paternity (art. 89, para. 2, of the Family and Guardianship Code), for granting to the child the name of its mother's husband (art. 90, para. 1, of the Family and Guardianship Code). The child's agreement is also required in cases of adoption, if he/she is above 13 years of age. In exceptional situations the court may waive the demand for such consent if the circumstances prove that the minor considers himself/herself to be the foster parent's child and demand of such consent would be contrary to the minor's interest (art. 118, paras. 1 and 2, of the Family and Guardianship Code).

45. Under Polish law an age limit for consumption of alcohol or other controlled substances has not been specified. The Law of 26 October 1982 on education in sobriety and preventing of alcoholism prohibits selling and serving alcohol in restaurants, bars, etc. to persons under 18 years of age (art. 15, para. 2). Using of alcohol or other substances by a minor (i.e. a

person under 18 years of age) for the purposes of intoxication may be subject to proceedings before the family court in accordance with provisions of the Law of 26 October 1992 on procedure in juvenile cases (art. 4, para. 1).

III. INFORMATION ON IMPLEMENTATION OF GENERAL PRINCIPLES

46. Article 2 of the Convention on the Rights of the Child contains a non-discrimination clause. Its wording is almost identical with the provision of Article 24 of the International Covenant on Civil and Political Rights. Paragraph 2 of the article imposes on States parties the obligation to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child's parents, legal guardians or family members. The Polish legal system is based on the principle of equality of all individuals without any discrimination. It explicitly results from the provisions of the Constitution of the Republic of Poland which also contains the principle of equality of children born out of wedlock with those born in wedlock.

47. Provisions of the Family and Guardianship Code and Code of Civil Procedure do not contain any clauses admitting discrimination of any categories of children. Thus Polish legislation ensures conformity with the Convention in this regard.

48. The most typical and universal manifestation of discrimination which, inter alia, bears upon children is racial discrimination. In Poland this phenomenon does not exist in practice due, inter alia, to lack of racial minorities. However, in Poland there are small national minorities. The rights of national minorities have been determined in article 13 of the Education Law which concerns organization in primary and secondary general schools of language teaching for children and youth of other than Polish nationality.

49. An interesting form of preventing and solving school conflicts is the Ombudsman for Pupils' Rights. Such ombudsmen started functioning in January 1991 in several school superintendent's offices (for example in Poznań, Częstochowa and Chorzów). The short period of functioning of ombudsmen does not allow for reaching any conclusions, although even first experiences suggest that mediation may be more effective than administrative and legal interference. The status of the Ombudsman for Pupils' Rights is not legally sanctioned.

50. Article 3 of the Convention emphasizes the need for giving primary consideration to the well-being of the child in all actions undertaken by public or private institutions and individuals. The Constitution of the Republic of Poland in its present transitory shape has maintained many provisions concerning marriage, maternity and family protection (arts. 78-80). They also include provisions directly concerning children. They impose upon parents the obligation of bringing up their children to become honest and conscious of their responsibilities as citizens of the Republic of Poland (art. 79, para. 2) and upon State organs the obligation of taking particular care of youth education and providing them with the broadest possible development opportunities (art. 80). Other provisions ensure particular

protection to multi-children families (art. 79, para. 1) and mothers (art. 78, para. 2, item 2). Article 79, paragraph 4, guarantees to children born out of wedlock equal rights with those born in wedlock. However, no provision of the Constitution distinguishes "the best interests of the child" and none of them gives it priority over the interests of other persons.

51. Article 3 of the Convention imposes not only on the legislative bodies but also on courts and administrative authorities, and even on institutions responsible for the care or protection of children, the obligation of giving primary consideration to the best interests of the child, while not defining this expression in a rigid way. In this situation, the most proper - from the technical-legal standpoint - way of implementing the above-mentioned provision by the Polish legislator seems to be to apply an appropriate general clause. The Polish legal system conforms with this requirement through its provisions obliging organs applying law - in particular courts - to take into account - with appropriate priority - the well-being of the child.

52. We meet the expression "the well-being of the child" in the legal act which is the most important for family relations, that is in the Family and Guardianship Code of 1964. The Code has no general part or any other formally distinguished group of provisions which would have greater importance or broader scope of application than the other provisions. Thus, particular consideration for the well-being of the child could not find its expression in the placement of appropriate legal provisions. However, judicature considers that the priority given to the protection of the well-being of the child has general value, taking the form of the normative principle of Polish family law. This principle has been taken into account in all legal regulations affecting the child. Such an interpretation is proved by the fact that this principle is derived from the provisions of the Constitution determining the underlying structural principles of the Republic of Poland. The well-being of the child is recognized as the superior value in relation to the interests of parents, guardians, other individuals, etc. The Convention orders respect for the interests of the parents, presuming that they will be observed also in the interest of the child since the family is - in principle - the best environment for the child's development.

53. In the Polish legal system, responsibility, rights and obligations of parents with regard to their children are covered first of all by the institution of parental authority - regulated in more detail in the Family and Guardianship Code. In accordance with the provisions of the Convention, the parental authority is vested in both parents (arts. 92 and 93, para. 1, of the Family and Guardianship Code). As a result, there is no place for examining whether consideration for the well-being of the child requires granting parental authority to parents or not. However, this problem arises in the case of determination of paternity because in such a situation, in accordance with article 93, paragraph 2, of the Family and Guardianship Code, "the parental authority is granted to a father only when the court so decides".

54. The Family and Guardianship Code prohibits marriage dissolution through divorce "if it could affect the well-being of minor children of spouses" (art. 56, para. 2). This provision fully reflects the underlying principles of the Convention, which considers that the family and the cooperation of both parents create the most suitable conditions for the child's development. The

above-mentioned provision explicitly gives higher priority to the value expressed by "the well-being of the child" over the interests of parent(s) demanding dissolution of marriage. The function of this provision consists in maintaining family bonds and close educational interactions between both parents and their children, if it corresponds to the well-being of the child.

55. The well-being of the child is also the basis for the interference of judicial organs in the performance of the parental authority. In accordance with article 109 of the Family and Guardianship Code, "if the child's well-being is endangered, the guardianship court shall pass appropriate decisions", examples of which are given in further parts of the article. Thus, judicial organs may, in accordance with the principles of the Convention, influence the observance of the child's interests. This interference may result even in suspension or deprivation of the parental authority. However, the bases for such far-reaching decisions have been separately and narrowly determined. And thus, the court may suspend the parental authority in the situation of a transitory obstacle to its performance (art. 110 of the Code). The Court may deprive a parent of this authority "if the parental authority may not be performed due to permanent obstacle or if the parents abuse their authority or in a shocking way neglect their responsibilities with regard to the child" (art. 11, para. 1, of the Code). Thus, if the threat or infringement of the well-being of the child takes other, particularly less drastic forms, the court will have no basis for deprivation of the parental authority.

56. For various reasons the child may be brought up outside its natural family. In such cases the problem of the relation of the child's interests to the interests of the people bringing him/her up arises. Polish law refers here to the well-being of the child, first of all as regards the choice of the people to whom the child is to be entrusted. Appropriate provisions are based upon the presumption that each case should be individually considered, not confining oneself to any general patterns as in the case of parental authority vested in principle in the parents. At the same time, the child's well-being is to be the most important criterion of such choice.

57. In accordance with the provisions of the Convention, the contents of the legal relationship between the adopting and the adopted as well as between a guardian and the child should be determined by the superior interests of the child. These principles are fully respected by Polish law. In accordance with article 121, paragraph 1, and article 123 of the Code, the adopting person is granted the parental authority and as regards care, article 154 of the Code contains the general principle in accordance with which "the legal guardian is obliged to perform his/her activities with due diligence, as is required by the well-being of the child remaining under his/her custody and by the social interest". Besides, with respect to custody, the legal provisions applied are those relating to parental power (art. 155, para. 2, of the Code) which, as mentioned, are based upon the concept of the priority of the child's well-being.

58. The child's well-being is also taken into account when the decision is taken on the dissolution of the above-mentioned legal relationships, including custody. In accordance with article 169, paragraph 2, of the Code, the court may release the guardian who "commits acts or negligence infringing the well-

being of the child". As regards adoption (which may be subject to dissolution), consideration of the well-being of the child - as in the case of divorce - serves the maintenance of the family bonds. In accordance with article 125, paragraph 1: "Dissolution of the adoption relationship is not permissible if it infringes the well-being of the minor child". These provisions fully conform to the Convention.

59. Summing up, we may say that the contents of the expression "the well-being of the child", determined in accordance with indications of the current Polish law, generally corresponds to the expression of "the best interests of the child", reconstructed on the basis of the Convention on the Rights of the Child.

60. The child's right to life and development has been determined in article 6 of the Convention. The legislation of the Republic of Poland in its present shape guarantees protection of human life and health from the moment of conception. Provisions governing this issue have been included in the Law of 7 January 1993 on family planning, human foetus protection and admissibility of abortion, which states that every human being has the inherent right to life from the moment of conception; the life and the health of the child from the moment of conception are under legal protection.

61. The Republic of Poland takes particular care of the education of children and youth and ensures them broadest development opportunities, in accordance with article 80 of the Constitution.

62. The right of the child to protection from all the risks to his/her life and health as well as the right to development are supported by legal norms providing for particular care for a mother prior to and after childbirth. Polish legislation concerning labour relations ensures to women maternity leave, as well as childcare leave which can be taken by a mother or a father (more detailed information on leave is contained in chap. VIII).

63. Protection of the child's life and health, his/her physical, mental and social development, has been also guaranteed by other Acts of Parliament, concerning: health service institutions, educational system, procedure in juvenile cases, employment and rehabilitation for the disabled. This question is also governed by the Family and Guardianship Code which determines, inter alia, the rights and obligations of parents to provide the child with appropriate development conditions (information in this field is contained in chap. VII), as well as legal acts concerning vocational preparation of young persons, system of allowances and social insurance (more detailed information in this field is contained in chap. VIII).

64. Legal acts in force are, in principle, sufficient; however, in the current situation of economic crisis the threat that the development needs of children will not be met has intensified. To a certain degree these difficulties are counteracted by the social assistance organized by governmental and self-governmental administrative organs cooperating with voluntary organizations, religious groups, charitable associations, foundations and individuals.

65. The Convention strongly emphasizes the identity of the child and respect for his/her views, which is particularly important when he/she grows up and attains maturity. Article 12 assures to the child, who is capable of forming his or her own views, the right to express those views freely in all matters affecting the child. This right is related to the obligation, imposed on State organs, non-governmental organizations and individuals having an influence upon the child's situation, to hear the views of the child and give them due weight.

66. Many provisions of the Family and Guardianship Code require the consent of the child who is above the age of 13 years, for the change of his/her name (art. 88, para. 2; art. 89, paras. 1 and 2; art. 90, para. 1; art. 122, para. 3, of the Code), for adoption (art. 118, para. 1), for testing the child's blood in civil proceedings (art. 306 of the Code of Civil Procedure).

67. As regards civil law, the child's participation in legal processes depends on age. Children above 13 years of age may undertake certain acts only under supervision, that is with the consent of their statutory representatives and even the guardianship court. These concern entering into obligations or disposing of the material right. Other acts may be undertaken by the child above 13 years of age on his/her own, such as: disposing of one's earnings, legal actions concerning properties given to his/her free use as well as conclusion of an employment contract. It is estimated that the Polish legal system determines a broad sphere of competence for minors to undertake legal actions. The legislator recognizes as valid even agreements which are concluded by children under 13 years of age if they concern minor, daily issues, for example small purchases (art. 14, para. 2, of the Civil Code).

68. The right of the child to express his/her own views, particularly the right to be heard in judicial and administrative proceedings affecting the child, is exercised more or less in the sphere of procedural norms. It is the principle that the child is represented in civil proceedings by his/her statutory representatives, usually by parents, in accordance with article 65, paragraphs 1 and 66 of the Civil Code. However, the child who is more than 13 years of age may appear on his/her own in most cases before the guardianship courts. Besides, article 65, paragraph 2 of the Code of Civil Procedure grants to the child above 13 years of age a limited procedural capacity in cases resulting from legal activities in which the child may appear on his/her own.

69. Article 573, paragraph 1, in connection with article 510 of the Code of Civil Procedure provides that a person with a limited procedural capacity may be party to guardianship proceedings which concern this person. However, a child's personal participation in court proceedings may be inadvisable for educational reasons. Article 573, paragraph 2, of the Code allows for exclusion of the child's personal participation in such proceedings. In the opinion of the Supreme Court the child is not a party to the proceedings in the sense of article 510 in matters concerning limitation or deprivation of parental authority. Nevertheless, the Supreme Court recognized the need for taking into account the child's opinion when examining the above-mentioned issues. This takes the form of the court deciding on the parental authority by hearing the child.

70. Summing up, it should be stated that the Polish legislation and legal system accept - as the basis of their functioning - the general principles of non-discrimination, safeguarding of the best interests of the child, guaranteeing him/her the right to life and development as well as respect for his/her views. However, everyday life sometimes creates threats to the exercise of these priorities. Such situations are caused mainly by the economic difficulties of the country, the impoverishment of society, and sometimes the low level of personal culture or ecological awareness of the family environment and the society.

IV. CIVIL RIGHTS AND FREEDOMS

71. In accordance with the Convention every child should have the right to preserve his/her identity, nationality and name. Polish legislation on the registry of birth, marriage and death (Law of 29 September 1986 with further amendments, arts. 38, 39 and 40) provides that the child should be registered in the 14 days following birth. The birth certificate specifies his/her name and surname, sex and personal information on the parents. The Law on Polish Nationality and the Family and Guardianship Code determine the detailed conditions for establishing a birth certificate for a child whose parent(s) are not known. Polish law does not allow for a situation in which the child would have no birth certificate. The Nationality Law of 19 February 1962 provides, inter alia, that the child acquires at birth Polish nationality when both parents are of Polish nationality or one of the parents is of Polish nationality and the other is not known or his/her nationality is not specified. In the case of mixed marriages, the child's nationality is determined upon the parent's application submitted within three months. Thus, the provisions of article 7 of the Convention are adhered to as regards acquiring a nationality and name.

72. The right of the child to know his/her parents - article 7 of the Convention - has certain limitations in Poland, which have been stipulated as reservation to the Convention. Poland maintains that the right of an adopted child to get to know his/her natural parents is subject to limitation by the action of legal provisions which make it possible for the adopting party to keep secret the child's origin. It is important, for example, in the case of so-called full adoption.

73. The Convention obliges States parties, in article 8, to undertake to respect the right of the child to preserve his/her identity, including nationality, name and family relations as recognized by law. The Polish legal system is compatible with this requirement. It is fulfilled by the family law provisions concerning parental authority and personal contact of parents with children, provisions on civil procedure as well as the Education Law (in art. 13), in accordance with which a school provides pupils with opportunities of preserving their national, ethnic and religious identity, through lessons about their language and their own history and culture.

74. Taking into account the divergence between the Convention and Polish law as regards provisions concerning preserving the child's identity in the case of foreign adoption, a draft amendment to the Family and Guardianship Code,

Code of Civil Procedure and International Private Law has been prepared. It provides that adoption of a Polish child, in connection with a change of his/her nationality, is prohibited unless such an adoption creates the only possibility for the child being brought up in a family.

75. Implementation of the child's right to freedom of association and to freedom of peaceful assembly (art. 15 of the Convention) finds its expression in the Associations Law (Act of 7 April 1989, art. 3), Assembly Law (Act of 5 July 1990, art. 1) and Education Law (Act of 7 September 1991, art. 56). In accordance with the Associations Law, associations may be established by Polish citizens possessing legal capacity and not deprived of public rights. Minors from 16 to 18 years of age, who possess a limited legal capacity may become members of associations and have active and passive electoral rights; however, the majority of the members of the board of the association should possess full legal capacity. Minors under 16 years of age may become members of associations, upon the consent of their statutory representatives, in accordance with principles determined in the statutes of these associations. However, if any organizational unit of an association admits only minors, they have active and passive electoral rights to authority of this unit.

76. The Assembly Law provides that: everyone may exercise the freedom of peaceful assembly. "Open air" public assemblies require previous notification to a governmental organ appropriate from the standpoint of the place of assembly.

77. The Education Law explicitly emphasizes that: "such associations and organizations may function at schools and educational centres, with the exception of political parties and organizations, which have as their statutory goal the educational activity of children and youth or the widening and enriching of forms of didactic, educational activities of the school or the educational centre" (para. 1). Paragraph 2 provides that "such activity is carried out upon the consent of the school director and after issuing a positive opinion by the school board or the board of the educational centre". Similarly, a model statute of a public school (appendix to the Regulation of the Minister of National Education of 19 June 1992) recognizes, in paragraph 35, as one of the principles which should be maintained when determining the detailed rights and obligations of a pupil in the statute of a given school, the right of a pupil to "influence the life of a school through self-government and the right to associate in organizations functioning in a school" (item 1, k).

78. As we see, the mentioned documents do not oblige the child to join organizations, recognizing his/her right to freedom of choice. Statutes of children's and youth organizations contain provisions on voluntary membership.

79. Only those organizations and associations which have been legalized and whose educational goals are not contrary to the values and educational goals set out in the Education Law may function in the educational system. This is compatible with article 15, paragraph 2, of the Convention on the Rights of the Child, concerning the scope of restrictions placed on the exercise of the freedom of association and assembly.

80. Particular attention should be paid to the provisions of the Convention which provide the child with the right to form his/her own views and the right to express those views freely (art. 12, para. 1), the opportunity to be heard in any judicial and administrative proceedings affecting the child (art. 12, para. 2), the right to receive and impart information (art. 13), the right to freedom of thought, conscience and religion (art. 14), the right to freedom of association and peaceful assembly (art. 15) and the right to legal protection against arbitrary or unlawful interference with his/her privacy, family or home (art. 16).

81. On ratification of the Convention, Poland submitted a declaration having the character of a modification of provisions of articles 12-16 of the Convention. It states that "Exercise by the child of his/her rights should respect the parental authority, in accordance with Polish customs and traditions". Thus, it is possible to restrict the child's capacity, taking into account his/her level of psychological, mental and physical development. This intention refers to the idea presented in the preamble to the Convention; it also refers to article 95, paragraph 2, of the Family and Guardianship Code (chap. VII).

82. The provision of article 14 of the Convention, obliging States parties to respect the right of the child to freedom of thought, conscience and religion, is observed in the Polish Education Law of 7 September 1991 (art. 12), which reads as follows:

> "Article 12.1. Recognizing the parents' right to religious education of children, public primary schools organize, at the request of parents, lessons of religion, public post-primary schools organize such lessons at the request of parents or pupils themselves; after attaining majority pupils decide on participation in lessons of religion."

Paragraph 2 of the article authorizes the Minister of National Education to determine, in consultation with the Church and religious authorities, conditions and methods of organizing lessons of religion at school. On the basis of this authorization the Minister of National Education issued on 14 April 1992 the Order concerning conditions and methods of organization of religion lessons in public schools.

83. The Convention on the Rights of the Child prohibits in article 37 inhuman or degrading treatment or punishment of children. Polish law does not contain any direct provision on the prohibition of beating children, but article 184 of the Penal Code concerning cruelty with regard to family also refers to cruelty with regard to minors: "Everyone who subjects to physical or moral cruelty his/her family member or other person permanently or temporarily dependent on the perpetrator or who subjects to cruelty the minor, is subject to punishment ...". The Family and Guardianship Code does not contain any provision prohibiting corporal punishment. At the same time, some indirect data and scarce research studies indicate that the problem of maltreatment of children emerges in all social environments (however, no statistics or evidence are available). Prevention of inhuman or degrading treatment or punishment of children is not favoured by the lack of a well-organized system of special services aimed at preventive activity, casual aid and therapy for children and adults.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

84. The principle of respecting the responsibilities, rights and duties of parents for the upbringing and development of the child, determined in article 5 of the Convention, has its reflection in Polish law. The Constitutional Act states that "Marriage, maternity and family are under the care and protection of the Republic of Poland". Relations between parents and children are governed by the provisions of the Family and Guardianship Code, for example:

Article 87:		Parents and children are obliged to support themselves.
Article 95,	paragraph 1:	Parental authority covers in particular parents' responsibility and right to take care of the child and his/her property and to bring up the child.
	paragraph 2:	The child under parents' power should be obedient to parents.
	paragraph 3:	Parental authority should be exercised in accordance with the well-being of the child and with the social interest.
Article 96:		Parents bring up the child under their parental authority and guide him/her. They are obliged to take care of the physical and mental development of the child and prepare him/her in an appropriate way to work for the well-being of the society in accordance with his/her abilities.
Article 27:		Both spouses are obliged, in accordance with their strength and possibilities, to satisfy the needs of the family established through their marriage. This obligation may also be fulfilled, completely or in part, through personal care for the upbringing of children and through the work in the common household.

85. Thus, parents are obliged to take care of the physical and mental development of the child, to properly prepare the child to work for the well-being of the society, according to his/her abilities, and to jointly decide on essential matters affecting the child. Parents are also responsible for management of the child's assets.

86. The Education Law states that the child's parents are obliged to ensure that the child regularly attends school (art. 18).

Separation from parents

87. When the child's well-being is threatened, the family court may restrict the parental authority on the basis of article 109 of the Family and Guardianship Code. That means:

(a) Impose upon the child's parents the obligation of appropriate conduct;

(b) Determine activities which may be undertaken by parents without the court's permission;

(c) Decide on the permanent supervision of a court guardian (being the supplementary court organ);

(d) Order the child to be placed in a centre of partial or permanent care or in a foster family.

88. If the parental authority is not performed due to permanent impediment or should the parents abuse parental authority or neglect their responsibilities towards the child in a blatant manner, the guardianship court may deprive the parents of the parental authority (art. 111 of the Family and Guardianship Code). In such a situation the child is placed in a substitute family environment or in a care or educational centre. Parental authority may be restituted if the circumstances underlying the decision change (art. 111, para. 2).

89. If the parental authority is vested in both parents and they divorce or separate, the court may entrust the parental authority to one of the parents, restricting the power of the other parent to certain responsibilities towards the rights of the child. When deciding on a divorce the court is also obliged to decide on the parental authority over a minor child. It is the general principle that parents have the right to personal contacts with the child, even when they have been deprived of their parental authority.

Family reunification (art. 10 of the Convention)

90. New passport laws, binding in Poland since 1990, allow individuals responsible for the child to freely decide on departure abroad for the purpose of family reunification, which conforms to article 10 of the Convention. Every Polish citizen has the right to receive a passport and keep it at home. Deprivation or restriction of this right may take place only in circumstances determined by law. If a minor applies for a passport, the consent of both parents or legal guardians is required unless the court states that one of the parents is not entitled to take a decision in this regard. If parents do not reach any agreement or if consent is impossible to acquire, it is replaced by the decision of the guardianship court.

Recovery of maintenance for the child

91. In accordance with Polish law parents are obliged to maintain a child who is not able to support himself/herself, unless profits from the child's assets are sufficient to cover the costs of his/her maintenance and education.

92. The scope of alimony benefits depends on the justified needs of the child and on the financial possibilities of parents (earnings and assets). The parent who persistently evades paying the maintenance of a child, for whom he/she is legally responsible, thereby exposing the child to the risk of deprivation of his/her basic living needs, is subject to penal liability.

93. Since 1961 Poland has been party to the Convention on the recovery abroad of maintenance, concluded in New York on 20 June 1956. Poland has also concluded bilateral agreements on this matter with Austria, Bulgaria, Czechoslovakia, France, Hungary, Italy, Romania and Yugoslavia. On the basis of reciprocity and in accordance with concluded agreements it is possible to claim maintenance or carry out the decision on maintenance in 25 States of the United States of America.

94. Families which are not able to provide the child with sufficient material means are rendered assistance on the basis of the Social Assistance Law.

95. A social assistance centre may institute an action for alimony against individuals evading maintenance of a member of a family. If alimony benefits cannot be obtained, benefits from the alimony fund are payable (see chapter VIII).

96. The State renders financial assistance for covering part of the costs of maintenance of children in foster families. Cash assistance depends on the degree of kinship of foster parents and children and it is granted in the following monthly amounts:

(a) In a foster family in which at least one member is related to the child in a degree imposing an obligation of maintenance - 20 per cent of the average monthly pay in the preceding quarter, calculated on the basis of provisions determining the amount of average pay in the socialized economy;

(b) In a foster family composed of strangers to the child or individuals related to him/her in a degree not imposing the obligation of maintenance - 40 per cent of the above-mentioned pay plus, for a child placed in a foster family who, due to his/her physical, psychophysical state, requires the permanent care of another person consisting of nursing or regular participation in treatment or rehabilitation, 100 per cent of the above-mentioned pay.

97. Children from foster families and from certain types of public care and educational centres with no parental care who become independent are granted a lump-sum cash payment in the amount of 300 per cent of the average monthly pay in the preceding quarter, announced by the President of the Main Statistical Office in the Official Gazette of the Republic of Poland "Monitor Polski" for the purposes of pensions indexation ("Monitor Polski" of 1992 No. 27, Text 189).

Children deprived of a family environment

98. Children deprived of parents' care have the right to care and assistance organized by the State. Public authorities assist the families in which parents are not able to perform all their duties on two planes: legal and social.

99. In the Polish system of child care the most common are:

(a) Family forms of complete care which are closest to a natural family. Foster families are selected first of all from among the child's relatives or persons indicated by the natural parents. This form of assistance is most preferable both from the educational and economic standpoint. Financial assistance rendered to foster families is designed to cover part of the costs of the child's maintenance. The number of foster families has decreased due to too low benefits and delays in payments;

(b) Family children houses are centres of complete care for children from three years of age until they become independent, but not longer than up to the age of 24 years. Only 4.3 per cent of residents of children's houses are natural orphans: 22.5 per cent are half-orphans and the remaining 73.2 per cent are social orphans (coming from multi-children families which have disintegrated or where there is alcohol abuse, parents deprived of liberty, etc.). Lowering of the standard of living with inefficient social protection of multi-children families and too low benefits for foster families favour an increase in the number of referrals to children's houses. Children up to three years of age are placed in small-family children's houses;

(c) Children's village in Bitgoraj, created and equipped by the association SOS Kinderdorf International and working on the basis of the model established by this association, is designed for 110 children. It is composed of 15 home-families, each with 6-12 children of different ages. The home-family is headed by a mother (a single woman), fulfilling all the care and educational functions. Another village is run by the association in Kraśnik in Lublin voivodeship;

(d) Centres for emergency care are designed for children from 3 to 18 years of age requiring temporary care or periodic isolation from their previous environment; playing the role of diagnosis and qualification centres with 70 per cent of residents accepted on the basis of the court's decision.

100. Youth educational centres are designed for youth aged from 13 to 18 years who are socially maladjusted. The centre is composed of schools and boarding houses. The number of places in these centres is insufficient, particularly for boys.

101. The table below presents statistics on children resident in care and educational centres as on 15 December 1992.

Type of centre	Number of centres	Number of children
Foster families	30 113	38 650
Small child houses	54	4 100
Family houses	134	829
Children's houses	289	14 284
Children's villages	2	142
State emergency care	52	11 133* 2 287**
Youth Educational Centres	49	3 600

* Annually.

** As on 15 December 1992.

102. The family is the most important educational environment, where all the major decisions are made concerning the child's development. An increasing number of factors negatively affecting the family's stability, covering the spheres of values, human relations and economic conditions, bring about a growth in the number of children partly or completely bereft of parental care. Thus it becomes necessary to modify the present system of assistance for families and children, mainly through reversing the proportions between activities having an intervention and a preventive character. It is necessary to prepare appropriate educational staff, increase the flexibility of the proposed forms of care and increase the participation of associations and non-governmental institutions in carrying out preventive and care activities.

Centres for youth run by court guardians

103. Centres for youth run by court guardians function at family courts. They have a preventive and resocialization character. Thanks to increased educational care they ensure the possibility of more effective supervision of minors. Minors are referred to the centres on the basis of a court decision. The centres may also work with minors having parents with restricted parental authority if these minors are not appropriately supervised and cared for in their free time and if, due to particular personal characteristics and life situations, they require regular supervision and assistance. The centres are open at least four days a week at hours adjusted to the needs of people concerned (at least four hours a day). At the end of 1992, 245 such centres functioned in Poland, with the participation of 4,121 children, including 676 juveniles and 3,346 minors.

Adoption

104. The Polish legal system also admits adoption, which may concern only minors and may be done only for his/her well-being. The guardianship court is the only organ authorized to decide on adoption. In 1991 courts decided on adoption in 3,360 cases, including 523 cases in which Polish children were adopted by individuals resident abroad. In 1992 adoption was decided in 3,021 cases, including 480 cases of foreign adoption.

105. It is a general principle that parents must give their consent to the child's adoption, unless they have been deprived of the parental authority or there are difficult-to-overcome obstacles in coming to an agreement with them. If the child is under guardianship, the guardian must agree to the adoption. Parents' consent to the child's adoption may not be given earlier than one month after the child's birth.

106. If the child has attained the age of 13 years, his/her consent is also necessary for adoption. In an exceptional situation the court may not seek the consent of the child, if an appraisal of the relationship between an adopting party and the child shows that the child considers himself/herself to be the adopting person's child and the securing of such consent would be contrary to the child's well-being.

107. In the Polish legislation in force, no general regulations exist which would exclude the possibility of Polish children being adopted by people residing abroad, in a situation in which these children could find families in Poland. However, the Supreme Court, in the resolution of seven judges of 12 June 1992 (Collection of the Supreme Court's decisions No. 10 of 1992, text 179, p. 35) explained that the passing of an Act of Parliament giving approval for the ratification of an international agreement meant that the agreement was transformed into national legislation, thereby treating the agreement as if it were an Act of Parliament. Thus, the provisions of the Convention on the Rights of the Child, after its ratification was approved by Parliament, have the force of an Act of Parliament and may be invoked in the courts as law with all the consequences deriving thereof. It particularly refers to article 20, paragraph 3, and article 21 (b) of the Convention on the Rights of the Child. Since 7 July 1991, when the Convention came into force, courts, when examining the cases of adoption of a Polish child by individuals residing abroad, first of all make sure that a family environment may not be found for the child in Poland.

108. The draft amendment of the Family and Guardianship Code, justified by the intention of bringing Polish family law into conformity with article 21 (b) of the Convention, will be submitted to the Sejm. The proposed amendment aims at providing substantive legal guarantees that Polish families will have priority in adoption matters. At the same time, it provides the opportunity for adoption of a Polish child by an individual residing abroad if, in the appraisal of the court, only this individual can ensure a family upbringing for this child. The proposed restriction of the possibility of adoption does not affect the situation where the adopting person is a member of the child's family living abroad. It does affect cases where the individual applying for the adoption is a relative of the child or has earlier adopted siblings of the child.

109. In connection with the implementation of article 21, a legal act has been prepared which will govern the issues determined by subparagraphs (b), (c), (d) and (e) of this article, through determination of who should be authorized to prepare and carry out adoptions.

Illicit transfer and non-return

110. Poland ratified the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, concluded at The Hague on 25 October 1980, which came into force for Poland on 2 November 1992. Bilateral agreements concluded by Poland (for example with Austria, Bulgaria, Czechoslovakia, France, Yugoslavia, Romania, Hungary and Italy) are the basis for reciprocal recognition and execution of judicial decisions ordering extradition of a child.

111. Provisions of the Convention imposing on States parties the obligation to ensure that a child shall not be separated from his/her parents against its will (art. 9), as well as to take measures to combat the illicit transfer and non-return of children abroad (art. 11), are observed by Polish law; inter alia, they find reflection in provisions of the Passport Law of 29 November 1990, which provides in article 7, paragraph 4, that: "If a minor applies for a passport, the consent of both parents or legal guardians is required unless the court states that one of the parents is not entitled to take a decision in this regard. If parents do not reach any agreement in this field or if the consent is not possible to acquire, it is replaced by the decision of the guardianship court". Article 8, paragraph 2, of this Law provides that "Passports may cover children under 16 years of age travelling under the care of the passport's owner" (entry of the child's name in a passport is made under conditions determined in article 7, paragraph 3, of the Law).

Abuse and neglect, including physical and psychological recovery

112. Where parents or a guardian use mental or physical violence against the child or neglect their obligations with regard to the child, the court is entitled to take appropriate decisions aiming at the elimination of such situations and even to take the child away from the family environment. Polish law also provides for penal liability of an individual who, inter alia, physically or mentally maltreats a minor, induces him/her to consume alcohol or to engage in prostitution, commits lascivious act before a minor under 15 years of age, or has sexual intercourse with a relative in direct line (brother, sister or an adopted person).

113. In Poland no evidence nor statistics are collected concerning cases of violence against children. At the same time some indirect data and scarce research studies indicate that in Poland this is an emerging problem in all social environments, with the trend growing. Although official court statistics register only several hundred cases of maltreatment of children, in practice the figure may be higher. In such cases the courts decide whether to place a child in an educational or care centre or in a foster family. Such children are provided with conditions for their correct physical and mental

development and constant care is taken for their health. The centres employ skilled personnel: teachers, psychologists and pedagogues. Children placed in foster families are cared for by teachers-foster parents.

Periodic review of placement

114. In implementation of the principle of "the best provision for the interests of the child", all schoolchildren have been provided with 24-hour health care. These issues are regulated by the Order of the Minister of Health and Social Welfare of 5 November 1992 concerning the scope, organization and forms of health care for schoolchildren.

115. In fulfilling the requirements of article 25 of the Convention, the education laws have imposed upon centres in which children stay the obligation to review the circumstances relevant to the child's placement in the centre.

116. The draft Order of the Minister of National Education concerning the principles of organization of care for disabled schoolchildren, their education in generally available and integrated schools and centres as well as of organization of special education, in its part concerning the goals and tasks of a school contains a provision emphasizing the necessity of analysing the justification for a child's stay in the centre. If any justified doubts arise the child should be referred to a psychological or pedagogical centre for examination. It may be considered that the above legal regulations fully ensure the child's interests in accordance with the intention of article 25 of the Convention.

VI. BASIC HEALTH AND WELFARE

Survival and development

117. The right of the child to protection against risk to life and health and the right to development (art. 6, para. 2; art. 24 and arts. 26-28 of the Convention) are supported by legal norms imposing an obligation to render particular protection for a mother before and after childbirth. Polish legislation in the field of labour relations provides for the appropriate protection of mothers before and after confinement and provides them not only with leave connected directly with nursing of a newborn but also leave to take care of a small child for up to three years, but not longer than the moment of the child's attaining the age of four years. Such leave may be also granted to the father of the child - in accordance with paragraph 1, item 3, of the Order of the Council of Ministers of 17 July 1991 concerning child-care leaves.

118. Recognition of the role of the father in the balanced development of the child implements the postulate of the Convention in accordance with which the child should not be separated from both parents and not only from the mother.

119. Cash benefits granted in respect of childbirth and for child care are described in further parts of this report.

120. The conditions necessary for the protection of the life and health of a child and his/her physical, mental and social development should be also created by public services organized in accordance with the following Laws:

- of 30 August 1991 concerning health care establishments;
- of 7 September 1991 concerning the education system;
- of 24 October 1982 concerning procedure in juvenile cases.

Provisions of other Laws also guarantee appropriate conditions for the child's development. The following Laws could be mentioned here: concerning employment and rehabilitation of the disabled, vocational preparation of young persons, system of social insurance benefits, principles of functioning of various funds (for example National Fund for Rehabilitation for the Disabled, National Fund for Environment and National Economy Protection. The National Fund for Rehabilitation of the Disabled devotes its financial means to rehabilitation of disabled children and youth, partly financing rehabilitation holidays, rehabilitation assistance and rehabilitation centres for disabled children).

Disabled children

121. The right of the disabled child to special care taking into account his/her state of health and living conditions - in accordance with article 23 of the Convention - is observed in Polish legislation first of all through forming of appropriate instruments of social policy in favour of the family. Families bringing up disabled children are granted benefits at an increased amount. An increased material assistance is also granted to foster families accepting a disabled child for upbringing and maintenance. A mother who adopts a disabled child and takes personal care of him/her is also entitled to longer child-care leave (Order of the Minister of Labour and Social Policy of 10 April 1989 concerning family and nursing allowances. Order of the Council of Ministers of 9 May 1986 concerning family allowances for individual farmers' children, Order of the Council of Ministers of 26 January 1979 concerning foster families).

122. An individual taking personal care of a disabled child may be granted earlier retirement. This right is granted not only to a mother but, in her absence or inability to render care, to a father or another person who has accepted the child for upbringing as well as to a guardian if he/she takes personal care of the child - in accordance with the Order of the Council of Ministers of 15 May 1989 concerning entitlement to earlier retirement for workers taking care of children requiring permanent care.

123. Disabled children are granted care and education in various types of schools and special centres or in integrated schools and kindergartens on the basis of the following legal acts: Education Law of 7 September 1991, Regulation of the Minister of Education concerning principles of organization of special education of 17 April 1984, Order of the Minister of Health and Social Welfare of 5 November 1992 concerning the scope, organization and forms of health care for schoolchildren.

124. Special kindergartens, schools of various types, school and educational centres, therapeutic, preventive and educational day-rooms are organized according to the special educational needs and the kind and degree of disability of the child, in particular those who are mentally disabled, with impaired hearing or sight, chronically ill or handicapped or with motor disfunctions. In the school year 1991/92 there were 135 special kindergartens caring for 5,300 children. This year the number of such kindergartens amounts to 121 (1.2 per cent) and the number of children exceeds 5,000 (0.6 per cent). About 2 per cent of the total number of children of primary school age attend special primary schools or are in special departments of public primary schools.

125. Disabled children may also attend special post-primary schools. In the school year 1991/92 there were 300 such schools, including 272 basic vocational and 28 secondary (including 11 general secondary schools and 17 secondary vocational schools). About 27,000 pupils attended special post-primary schools.

126. In the school year 1991/92, of the total number of 1,091 special schools:

- Schools for blind children and children with impaired sight accounted for 3 per cent;
- Schools for deaf and partially deaf children accounted for 4 per cent;
- Schools for chronically ill children accounted for 13 per cent;
- Schools for handicapped children accounted for 3 per cent;
- Schools for slightly mentally handicapped children accounted for 63 per cent;
- Schools for more mentally handicapped children accounted for 8 per cent;
- Schools for socially maladjusted children accounted for 6 per cent.

127. Disabled children and children temporarily unable to attend school are allowed to organize individual teaching at home. In 1992/93 such teaching was organized for some 10,000 children. Over 500 school and educational centres were also organized, that is boarding-schools, which took care of some 38,000 pupils. Parents of these pupils covered only a part of the costs connected with the child's stay in a boarding-school of a special educational centre. They may be completely exempt from payment on account of their difficult material situation.

128. Disabled children requiring temporary care may attend school or therapeutic and preventive day-rooms. In 1993 some 300 such day-rooms were organized for over 13,000 pupils.

129. Disabled children are provided with free specialist care in the field of medical rehabilitation. This care is provided in in-patient and out-patient form. It covers physiotherapeutic benefits and instruction for continuing therapeutic recommendations at home. In accordance with the Order of the Minister of Health and Social Welfare of 2 July 1974, with further amendments, children are provided with free orthopaedic equipment and auxiliary appliances necessary for their rehabilitation and proper functioning. They are also granted free benefits at health resorts depending on the kind of health problems.

130. Disabled children are entitled to free schoolbooks. Besides, pupils with impaired hearing receive a free hearing apparatus (once every five years) and pupils with impaired sight, special exercise books and basic optical equipment. Handicapped or disabled children are entitled to reduced rates on public transport to and from their place of residence or stay to school, kindergarten, rehabilitation or medical centre. Their guardians accompanying them are also entitled to free travel. These entitlements have been determined in the Law of 20 June 1992 concerning entitlements to free and reduced-rate travel by collective means of transport.

131. Activities are taken to overcome architectonic, transport, information and other barriers; for example television news is translated into sign language and, at the initiative of associations and organizations of the disabled, special programmes are broadcast: "In the world of silence".

132. Disabled children are also rendered assistance by voluntary organizations, foundations and religious groups, which create conditions for the development of self-assistance movements of parents having children with a given kind of disability (for example with poliomyelitis, diarrhoea, diabetes, etc.) The following non-governmental organizations function in the framework of the Society of Children's Friends:

- National Committee of Assistance for Children with Impaired Motor Functions;
- National Committee of Friends of Children on Non-Gluten Diet;
- Committee of Assistance for Diabetic Children;
- National Circle of Assistance for Children with Chilognathopalatoschisis,
- National Circle of Assistance for Children with Congenital Osteopsathyrosis.

133. The Society of Children's Friends runs rehabilitation and educational centres (20), including:

- Special Educational Centre "Helenów" dealing with children with polio, dyslexia and dysgraphia. The Centre takes care of 130 children from 7 to 16 years of age, including 85 dyslectic children and 45 children with impaired motor functions;

- The Centre for Communications by Symbols "BLISS" - for children who do not speak and do not write or use sign language due to disability resulting from polio. The Centre renders some 30 consultations a year to children needing the "BLISS" method or using it and carries out courses and training seminars for heads of regional groups.

134. The Society disseminates teaching and education of disabled children by the integrationist method. It organizes health and rehabilitation summer camps for mentally handicapped children.

135. The disabled are also associated in unions, for example the Polish Union of the Deaf, Polish Union of the Blind, etc., which render assistance and care to disabled children.

136. Many religious organizations also deal with care and education of disabled children: 41 educational centres and special primary schools are run by religious congregations, covering children from 7 to 17 years of age. Religious congregations also run four special kindergartens.

Health and health services

137. The Republic of Poland guarantees, in accordance with legislation in force, free preventive, medical and rehabilitation benefits rendered by public health services to all children under 18 years of age and to pupils/students above 18 years of age. This issue is governed by the Education Law of 7 September 1991 and by the Order of the Minister of Health and Social Welfare of 8 January 1992 amending the Order concerning free benefits of the social health service establishments and the Order of 5 November 1992 concerning the scope, organization and forms of health care for pupils.

138. The right to free health care covers:

- Health care rendered by the public health service, particularly preventive, medical and rehabilitation services, as well as pronouncing opinions on the health situation;

- Free treatment at health resorts;

- Provision of medicaments and sanitary articles in the range determined by the Law concerning principles of payment for medicaments and sanitary articles;

- Provision of orthopaedic equipment and auxiliary appliances in accordance with principles determined in separate provisions concerning insured people.

139. Legal guarantees of free medical benefits for pregnant women, rendered by public health service establishments, are contained in the Order of the Minister of Health and Social Welfare of 18 August 1962 concerning free benefits rendered by social health service establishments.

140. Provisions of the convention are implemented through the above-mentioned legal acts.

141. Protection of pregnant women and their children is organized as a separate medical section which covers obstetrics and gynaecology, prenatal care, neonatology and paediatrics. The basic task in this field is to diminish infant mortality which, despite systematic diminishing of its rate, is still excessively high. Calculated in accordance with WHO recommendations, the infant mortality rate in Poland amounted to 18.2 per thousand in 1991, which was lower by 1.2 per thousand as compared with 1990. The National Health Programme plans to diminish it further.

142. The high level of infant mortality is connected with the frequency of low birth weight (more than 8 per cent of total births). Approximately 70 per cent of perinatal deaths take place in this group, their main causes being perinatal diseases and congenital defects. A decrease in the infant mortality rate will be possible if the number of newborns with low birth weight diminishes, which depends on the improvement of prenatal care, improvement in the socio-economic standard of society, a change in the life-style of young women, the improvement of the living and working environment and the elimination of existing hazards, particularly in areas of ecologic disaster.

143. Postneonatal mortality (above 28 days of life) in 1991 amounted to 4.2 per 1,000 live births. The main causes of death in this group were: congenital defects, respiratory system diseases, infectious diseases and injuries.

144. Aiming at ensuring proper care to pregnant women and newborns, and at its permanent improvement, the Ministry of Health and Social Welfare, in cooperation with the Institute of Mother and Child, has elaborated programmes containing guidelines and codes of practice, which are being implemented in all public health service establishments. They are the following:

(a) "The system of three-level, selective care for a pregnant woman" aiming at achieving proper medical care during pregnancy among identified risk groups; and

(b) "Directions for improvement of health care for the newborn", which are recommendations aimed at ensuring intensive care and therapy for newborns requiring special medical care, as well as adjustment of housing conditions of infant wards to modern standards. One of the elements of this programme is universal introduction of the "rooming-in" system, what has been considered as an optimum from the standpoint of development of emotional bonds between a mother and her child and taking into account the necessity of breast-feeding from the early hours after the child's birth.

145. The necessity for modernizing health service premises and providing health service centres with the appropriate equipment and apparatus requires considerable financial means. In the difficult economic situation of the country it is the factor delaying full implementation of these programmes.

146. The scope of primary medical services covers medical services in the field of childhood diseases, gynaecology and stomatology. These services in Poland are organized on the territorial-district basis. In 1991, 1,851 district out-patient centres functioned in urban areas and 331 in rural areas. The availability of medical assistance as regards primary health service is satisfactory.

147. Health care for children and youth is rendered by doctors of primary services in the child's place of residence and by nurses in schools. In educational centres (for children requiring special care) health care services are rendered by doctors and nurses.

148. The change of eating habits of the society is a problem requiring more firm activities. The quantitative composition of an average child's diet contains too small a share of fruits and vegetables as well as dairy products containing protein. Meals are often irregular. It is also an urgent problem to ensure production of special food and higher biological-quality food for sick people and the disabled with specified allergies and requirements.

149. The health standard of the society is principally influenced, besides medical care, by ecological, social and living conditions, hygienic habits and the style of life. Thus, we give priority to ensuring appropriate conditions for stimulating pro-health attitudes, starting from children and youth. Health education is fully available to all social groups.

150. Aiming at the prevention of diseases, activities are carried out in the field of health education by the health service and national education employees and by the mass media. Immunization is the most important activity undertaken to prevent infectious diseases. In 1991 children from 0 to 19 years of age were immunized against tuberculosis, diphtheria, tetanus, pertussis, measles, poliomyelitis and roseola. Besides, children of mothers infected with the hepatitis B virus are immunized against this virus. The proportion of children immunized in Poland has remained at a very high level, from 95 to 100 per cent, depending on the kind of immunization.

151. Tasks connected with family planning and the health of pregnant women are also performed by "parenthood schools", an integral part of public health service establishments. They, inter alia, promote breast-feeding, together with out-patient centres for women and obstetric wards.

152. The Polish education system has created various institutionalized forms of psychological, therapeutic and rehabilitation assistance for children and youth, their parents or guardians, teachers and tutors. This assistance is rendered free of charge and on the basis of voluntary application. Special assistance is rendered by school pedagogues, psychologists and therapists employed in kindergartens, schools including special schools, and educational and resocialization centres. Assistance rendered to pupils aims at supporting their development through correcting deviations and compensating for defects in understanding the curricula as well as at eliminating the causes and symptoms of disorders.

153. Assistance for parents, children and teachers is also rendered by psychological and pedagogical and other special centres. As on 31 August 1992, the number of such centres functioning in the education system amounted to 564, with 29 branches. They employed 6,190 experts in many fields (psychologists, pedagogues, therapists, doctors). Public centres render free services.

154. Many voluntary organizations, societies and foundations organize counselling in the field of health care, dissemination of culture, etc. For example, the Society of Children's Friends has undertaken counselling services for parents in the field of health and nursing of a young child, organizes family holidays with a pedagogue and for parents having educational problems with their children. In the last two years 680 parents and children were covered by this form of assistance. The Society also organizes educational assistance for parents through a network of educational counselling centres and through publishing educational magazines and brochures on educational subjects, as well as other publications.

155. Religious organizations and private associations as well as individuals carry out a broad range of activities in the field of family guidance, counselling and therapy concerning, for example, combating and preventing drug, nicotine and alcohol abuse.

156. With regard to article 24, paragraph 2 (f) of the Convention, Poland made a reservation in accordance with which counselling for parents and education in family planning should remain in accordance with moral principles (Declaration).

Social insurance system

157. The right of every child to benefit from social insurance, mentioned in article 26 of the Convention on the Rights of the Child, finds its reflection in Polish legislation. These matters are governed by many laws, orders of the Council of Ministers, regulations of the Minister of Health and Social Welfare and of other ministers.

158. In the Polish social insurance system children have the right to benefit from social insurance on account of their membership in a family of an individual covered by social insurance (they are maintained by this individual). The fact of being maintained by an individual covered by social insurance entitles them to free medical benefits rendered in accordance with the Social Insurance Law of 28 March 1933 and to survivor's pension. The principles for granting survivors' pensions are specified in the Law of 14 December 1982 concerning pension security for workers and their families. Irrespective of the parent's insurance, the child is entitled to medical benefits and to a disability pension. The right to the disability pension (on the basis of the above-mentioned Law) is granted to pupils of post-primary

schools if the disability entitling the child to the pension started in the period of school attendance. The right to a disability pension has also been granted to a child who has become disabled as a result of a sports activity for which he/she has received a fellowship.

159. Social benefits granted to parents (individuals) bringing up children include care for a sick child, confinement, maternity, nursing and child-care allowances. The aim of these benefits is to compensate for the growth of expenditures connected with childbirth (confinement allowance), his/her upbringing (family allowance), state of health (nursing allowance), or to compensate for lost earnings due to the necessity of taking care of the child (maternity, care for a sick child and child-care allowance). In 1991 the number of families receiving family allowances amounted to 5,372,000.

160. In 1990 the principles on which family allowances were calculated were changed: determination of a basic amount of the allowance was replaced by a parametrical value at the level of 8 per cent of average pay in the preceding quarter. The average monthly level of the family allowance per family in 1989 amounted to some 18 per cent of the average pay, while in 1991 it amounted to some 13 per cent.

161. Dispersion of financial means resulting from the maintenance of the universality of family allowances at the same level for all the beneficiaries, together with the decline in real value of these allowances, resulted in depriving this benefit of the character of a State social policy instrument.

162. The family allowance may contribute to better satisfy the child's needs. It is the most common form of State assistance for families bringing up children. It is payable to workers and other persons covered by compulsory social insurance who support children under 16 years of age or - if the child attends school - up to the moment of school completion, but not longer than the attainment by the child of the age of 20 years (Order of the Minister of Labour and Social Policy of 10 April 1989 concerning family and nursing allowances).

163. The number of individuals receiving child-care allowances increased from 197,000 in 1989 to 391,000 in 1991. At the same time the real value of the average allowance increased (over 2.5 times). The relation of the average child-care allowance to the average pay considerably improved (from about 7 per cent in 1989 to about 22 per cent in 1991). This was the result of a change in the base used to calculate the allowance: in 1989 the calculation was based on the average pay in the preceding year; since 1990 the preceding quarter has been used as the basis for calculation. Thus, a change in the amount of the benefit was made each quarter.

164. The following table indicates the amounts paid for the various allowances to the beneficiaries:

Benefits in zlotys	1985	1989	1990	1991
Family and nursing-allowance (monthly)	2 700	37 834	132 320	240 426
Care allowance (daily)	388	2 522	16 658	35 742
Child-care allowance (monthly)	2 861	13 378	179 521	396 235
Maternity allowance (daily)	318	2 060	14 832	31 010

Social insurance benefits

Payments in billion zlotys	1985	1989	1990	1991
Total	319.6	3 364.4	15 300.8	30 277.8
Allowances: family and nursing	162.7	2 380.5	8 518.4	15 499.1
Care	13.3	73.9	371.0	734.9
Child-care	14.1	31.6	606.8	1 860.1
Maternity	18.1	100.3	708.7	1 249.1
Other (confinement, compensatory, nursing, for farmers' children, rehabilitation)	4.3	55.6	182.9	402.0
Families eligible for family allowances (thousands)				
Average monthly number of families	5 017	5 243	5 365	5 372

(excluding pensioners)

165. The right of children of working parents to benefit from child-care services - determined in article 18, paragraph 3, of the Convention - is implemented in Poland through creating the opportunity of attending nurseries, kindergartens, school day-rooms and youth clubs.

166. Nurseries are one of the forms of care for young children. Up to the end of 1990 nurseries were supervised and financed by the Ministry of Health and Social Welfare. Nurseries are designed for children aged from six weeks to three years of age whose mothers work and who cannot be cared for in a family. At present, nurseries are under the competence of gmina (local government), on

the basis of the law concerning the division of tasks and competencies determined in special laws between organs of gmina and State administration organs and concerning the amendment of certain laws (Dziennik Ustaw No. 34, Text 198) as well as on the basis of article 58 of the Social Assistance Law (Dziennik Ustaw No. 87 of 1990, Text 506).

167. The Ministry of Health and Social Welfare keeps the activities of nurseries under close supervision; however, it has no influence upon their establishment of liquidation. Nurseries, as institutions rendering health care and certain social protection benefits are, in conformity with the Law of 30 August 1991 concerning health-care establishments, public health service establishments. In 1990, before their transfer to gmina's competence, their number amounted to 1,404 while at the end of 1992 it had decreased by 586 (to 818). The number of places in nurseries in 1990 amounted to 95,515 while in 1992 it had decreased by 43,300 (to 52,215). In 1990 nurseries rendered services to 136,691 children and in 1992 the number had dropped to 87,023 (that is by 49,668 children).

168. The decrease in the number of nurseries and the number of children covered by their services is the result of decreased interest of mothers in this form of care, growth of fees and female unemployment.

Kindergarten education

169. In accordance with article 14 of the Education Law of 7 September 1991, kindergarten education covers children from three to six years of age. A child of six years of age is entitled to one year pre-school preparation (0 grade) and implementation of this right is an obligatory task of gmina. Public kindergarten implements the programme minimum of pre-school education determined by the Minister of National Education at the rate of at least five hours a day. Teaching and education in the framework of this minimum is free of charge. In 1991, pre-school institutions covered 45.1 per cent of children from three to six years of age, while in 1992 the proportion had dropped to 42.9 per cent. Kindergartens may also be run by individuals and legal persons. In 1992, 329 kindergartens were run outside the local government system, including: 92 by Church legal persons, 70 by individuals, 4 by the Society of Children's Friends and 163 by other legal persons.

Youth day-rooms and clubs

170. These have the character of additional forms of school educational activity and are organized - in accordance with the Regulation of the Minister of National Education of 19 September 1992 concerning the model statute of public schools for children and youth - by a school which has appropriate premises, equipment, personnel and financial means at its disposal. School day-rooms (in post-primary schools called youthclubs) function on average in one school out of four. In 1991 6,847 day-rooms (clubs) took care of and organized occupation for 705,591 pupils. Approximate data show that in 1992 their number considerably decreased.

Standard of living

171. Article 27 of the Convention does not determine in detail the contents of the right of the child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. It is generally considered that the right of the child to an appropriate standard of living covers a broad range of benefits, starting from providing him/her with food, ensuring his/her correct physical development, appropriate clothing and housing conditions and ending with guaranteeing his/her material rights.

172. Polish law - article 27 of the Family and Guardianship Code - provides that both spouses are obliged to satisfy the needs of the family established by marriage. The maintenance obligation of parents in relation to the child begins from his/her birth and expires when the child is prepared for professional work. This responsibility lasts at least to the moment of completion by the child of the school obligation. A handicapped or mentally retarded child who is not able to support himself/herself is entitled to maintenance for an indefinite period (art. 133, para. 1, of the Family and Guardianship Code).

173. Provisions of the Family and Guardianship Code do not determine strictly the level of maintenance. This level depends not only upon the individual earning possibilities and assets of parents and individuals upon whom the law imposed the maintenance obligation, but also on the justified needs of the child (art. 135, para. 2, of the Fami y and Guardianship Code). However, the law determines the sequence of individuals obliged to maintenance (list of priorities). If the maintenance obligation is not fulfilled by one of the parents, the law guarantees to the child the right to claim his/her demands before the court and provides for the execution of granted benefits.

174. If execution of adjudicated benefits is not possible, they are payable from the State Alimony Fund, created by the Law of 18 July 1974. Benefits are payable from this Fund up to the amount of adjudicated alimonies but not exceeding 30 per cent of average pay in the preceding quarter. In 1980 85,714 payments were made from the fund, in 1987 104,541, which constituted 65 per cent of all cases for maintenance.

Alimony Fund

	1985	1989	1990	1991
Average number of eligible for benefits	110 442	115 044	115 724	141 270
Payments from persons obliged to reimburse benefits (proportion of total payments)	55.0	67.6	32.8	13.0

175. Polish law also provides for State assistance to multi-children and incomplete families. In 1988 families with three children accounted for 11.4 per cent of the total number of families, with four and more children

for 3.3 per cent. In 1989 multi-children and incomplete families accounted for 19 per cent of the total number of workers' families and their share among families with the lowest incomes was 64 per cent.

176. The economic recession, unemployment and the decline in the living standard all resulted in a growing number of families falling below the poverty line. The proportion of families living in poverty, that is families which have sufficient means only for food or families which would not manage without social assistance, increased from 6 per cent in 1988 to 21 per cent in 1990. The proportion of families living on the verge of poverty, that is families which have sufficient financial means for food but insufficient for other things, increased from 15 per cent in 1988 to 34 per cent in 1990.

177. This means a growing number of people requiring State assistance. Social assistance, in accordance with principles determined by the Social Assistance Law of 29 November 1990, is granted to individuals and families in the event of: poverty, death of parents, homelessness, the need for maternity protection, unemployment, physical and mental handicap, protracted illness, helplessness in matters connected with the care and bringing up of children and with the management of the household (particularly in incomplete and multi-children families), alcoholism or drug abuse, difficulties in adjusting to life after leaving a penal institution, natural or ecological disaster.

178. Social assistance is organized by local government organs, cooperating in this field with voluntary organizations, religious groups, charitable associations, foundations and individuals. Social assistance aims at satisfying the material needs of individuals and families and at providing them with opportunities to live in conditions appropriate to human dignity as well as at enabling these individuals and families as far as possible, to attain independence, integration with their environment, etc. Social assistance is coordinated at the national level by the Ministry of Labour and Social Policy.

179. The so-called target allowance may be granted to meet material needs, for example children's lunches at school, clothing, schoolbooks, school supplies, children's holidays. The target allowance may take the form of a benefit in cash or in kind.

180. If such a need arises it is also possible to place a single mother with minor children or a pregnant woman in a social assistance house. A particular role in the social assistance system is also played by the activity called "social work", consisting of granting assistance to families in solving problems connected with children's upbringing and everyday problems, as well as assistance in strengthening (retrieving) the ability to function in society. Such a form of intervention is advisable particularly in the case of pathological families.

181. An important role is also played by social assistance centres at the gmina level, which take such initiatives as:

- Organization of day-rooms for children from families of alcoholics;
- Legal, pedagogical and psychological guidance for parents;

- Organization of networks of actions financially supporting activities in favour of children;

- Actions aimed at combating malnutrition of the poorest families and many other initiatives, taking into account the specific character of the needs and the possibilities of rendering assistance.

182. In the families of workers with low incomes social insurance and social assistance benefits account for 25 per cent of their income, while in families with high incomes the share is only 1.2 per cent. In multi-children and incomplete families with the lowest incomes the share of social benefits exceeds 46 per cent. An average amount of material benefits from social assistance equalled in 1991 about 1.4 billion zlotys for every beneficiary per year.

183. In 1991 the social assistance system covered 2.3 million people and a part of them benefited from more than one form of assistance. As compared with 1989 the number of people covered by social assistance increased almost threefold. The table below shows the number of people benefiting from different forms of social assistance:

Specification	1989	1990	1991
Benefits - total	800	1 651	2 328
Lump-sum benefits (in cash and in kind)	620	796	1 302
Housing assistance	-	841	1 010
Permanent cash allowances	84	88	108
Periodic cash allowances	37	53	221

184. Social assistance institutions render particular care to families in which correct development of children is put at risk due to various dysfunctions. A mother of children requiring special care and nursing who gives up her work to render such care is granted a permanent allowance from the budget for social assistance. Besides, a family in which a disabled child is brought up is covered by assistance taking the form of allowances for medicaments, subsidies for rehabilitation equipment and travel costs in the case of rehabilitation camps for the disabled.

185. Families which, due to low incomes, are temporarily not able to satisfy their basic needs may be granted a periodic allowance. The period for which such an allowance is paid is determined by local authorities taking into account the circumstances of the case.

186. Results of surveys show that in 1989 every fifth multi-children family and every third incomplete family with children was rendered assistance by institutions, organizations or individuals. Most often such assistance was rendered to mothers under 20 years of age (52.5 per cent). The most important

form of assistance was assistance in kind (clothing, fuel, food, medicaments) (82 per cent); more than half the beneficiaries were granted cash allowances in different forms.

187. The right of the child to an appropriate standard of living also means meeting his/her housing needs. The living conditions of the child undoubtedly reflect the actual wealth and development level of the whole society. The unfavourable housing situation in Poland has resulted in a considerable insufficiency of independent dwellings and low quality of existing housing resources. For every 1,000 population there are about 290 dwellings (on average about 110 households for every 100 dwellings). More than 9 million people (about 25 per cent of Poland's total population) live in very bad housing conditions (dwellings inhabited by three or more persons per room and/or lacking even a water supply).

188. Of the total number of households, about 20 per cent do not have independent dwellings (over 7 million people). About 5 per cent of the total number of dwellings in urban areas do not have a water supply, 15 per cent do not have a WC, 18 per cent do not possess a bathroom and 27 per cent central heating. In rural areas 36 per cent of the total number of dwellings do not have a water supply and 54 per cent a toilet.

189. Providing the child with good living conditions is connected with creating opportunities for acquiring an appropriate dwelling by his/her parents. Multi-children families are in a very unfavourable situation in this regard. In urban areas more than 40 per cent of parents with children under 24 years of age occupy dwellings in which there are two or more persons per room (in rural areas - 56 per cent). In the case of multi-children families, more than 75 per cent live in such conditions, including 35 per cent in extremely overcrowded dwellings (three or more persons per room). Only 10 per cent of children from multi-children families had an independent room and only 61 per cent slept in their own beds.

190. Since July 1990 a new form of social assistance benefits has been introduced, namely subsidies for maintenance of dwellings for families and individuals in the most difficult material situation. This type of assistance covered in 1990 about 7 per cent and in 1991 about 8 per cent of all households. Assistance was granted mainly to families living on pensions and workers' incomplete families. An average amount of housing assistance in 1990 equalled about 380,000 zlotys a year per family, while in 1991 it reached the level of about 800,000 zlotys.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

School education, vocational guidance

191. In Poland the right of children to education and to free schooling (art. 28 of the Convention) is guaranteed by the Constitution. The principles of the functioning of the education system have been determined by the Education Law of 7 September 1991 and its executory acts.

192. In accordance with the Education Law:

- A child of six years of age is entitled to a one-year stay in a kindergarten, preparing him/her for starting school education;
- Public kindergartens render free education within the range of a minimum programme determined at present by the Minister of National Education to be five hours per day;
- Basic education is rendered by an eight-grade primary school;
- Education in the primary school is compulsory and parents of the child are obliged to ensure regular attendance by their child;
- Supervision of fulfilling the school obligation is carried out by the director of a school; if the child does not comply with the school obligation, compliance in accordance with the Law concerning executory procedures in administration is sought and a fine may be imposed on the parents;
- The public schools ensure free education within the framework of model curricula determined by the Minister of National Education;
- Enrolment of children in a public school is carried out on the basis of the principle of universal availability.

193. Executory acts to the Education Law impose on organs running public schools the obligation to ensure proper conditions for fulfilling the school obligation in primary schools and the opportunity to continue education in post-primary schools through creation of a network of public schools corresponding to the educational needs of the community. In these acts emphasis has been put upon the principle of accessibility: "In the creation and changes of schools their accessibility should be taken into account, particularly transport facilities and the possibility of providing places in boarding-schools (para. 2, item 4, of the Order of the Council of Ministers of 9 January 1993 concerning creation of a network of public post-primary schools)."

194. A pupil is entitled to material assistance from means in the State or local budget. Conditions and procedures for granting such assistance are determined by the Council of Ministers. The scope of material assistance for

pupils/students and the procedure for granting it from budgetary sources in the years 1989-1990 are presented in the appendix (table: fellowships for students). A pupil/student may also be granted a fellowship by voluntary organizations, for example the National Fund for Children.

195. The education system covers:

- Preschool education organized for children from three to six years of age;

- Compulsory universal eight-grade primary school, for children from 7 to 15 years of age;

- Different post-primary schools.

The system is complemented by educational centres allowing for developing interests, complementing knowledge and acquiring different abilities as well as by centres rendering special psychological and pedagogical assistance. These centres are situated mainly in urban areas. Schools situated in villages and in small towns should widen the scope of their tasks to include various forms of extra-curricular activity.

196. Since 1 January 1992 kindergartens have been transferred to the competence of local authorities (gmina). Running of primary schools has also been considered as an obligatory task of the gmina since 1 January 1994.

Primary schools

197. The network of primary schools includes:

- Universal compulsory primary schools for children aged from 7 to 15 years;

- Special primary schools for disabled and chronically ill children;

- Artistic schools teaching both artistic and general subjects in accordance with the State school curriculum;

- Primary schools preparing for work, organized for children above 15 years of age who have completed at least five years of a primary school but who would not be able to graduate from a normal primary school.

198. The following table gives data concerning primary schools for children and youth in the years 1990-1993 and the number of pupils in these schools:

Type of school		1990/92	1991/92	1992/93
Public schools	schools	19 446	19 393	19 262
	pupils	5 178 170	5 206 850	5 213 173
Special schools	schools	760	771	768
	pupils	84 317	83 295	82 171
Artistic schools	schools	57	60	45
	pupils	10 948	11 464	8 559
Schools preparing for work	schools	291	254	189
	pupils	17 501	13 423	10 311
Total	schools	20 506	20 478	20 264
	pupils	5 290 836	5 315 041	5 313 214

199. In recent years no statistical data were collected as regards exercising the school obligation because the number of children not complying with this obligation without justified cause was small. It is estimated that in 1993 0.25 per cent of children (including 0.1 per cent of girls) did not comply with the obligation for various reasons and 0.05 per cent (some 2,500) will not comply with this obligation without justified cause.

200. The principal influences upon the school network are population density, local standards and a communication network ensuring accessibility of schools in every season. Rural settlements in Poland are widely scattered and often thinly populated. In such case there are no demographic conditions to organize a school, even as regards primary education (grades I-III), because the number of children for these three grades does not exceed 10. On the contrary, in new housing quarters in towns schools are overpopulated because housing construction was not accompanied by school construction. The school network in certain urban areas does not satisfy the needs which results in schools operating on shifts.

201. The following principles have been accepted for the creation of a school network:

- A school with classes in grades I-III should be organized in proximity to pupils. Such schools may be organized for at least 10 pupils;

- Incomplete schools (with classes in grades I-IV, I-V, I-VI and I-VII) may be organized. For the organization of a complete school (with classes in grades I-VIII) 100 pupils are required. If the number of pupils is lower, a school organizes joint classes for different grades;

- Free transport to and from school should be provided if the child's way to school exceeds a distance of 3 kilometres in grades I-III and 4 kilometres in grades IV-VIII. Such transport is organized by local authorities (gmina).

202. In the school year 1991/92, rural schools attended by 36 per cent of pupils represented 75 per cent of the total number of public primary schools (19,393). An average group in a rural school had 18.1 children (in urban schools - 26.6) and per classroom there was 0.98 group in rural areas and 1.31 group in urban areas.

Post-primary schools

203. Post-primary schools comprise:

(a) Basic schools giving general and vocational education and the opportunity of further education in a secondary school;

(b) Secondary general schools, giving secondary general education with the opportunity to acquire a secondary-school certificate;

(c) Secondary vocational schools:

(i) Giving general secondary education with the opportunity to acquire a secondary-school certificate and basic vocational education (vocational lyceum);

(ii) Giving secondary general and vocational education with the opportunity to acquire a secondary-school certificate (technical secondary and similar schools);

(iii) Creating an opportunity of complementing general education with basic or secondary vocational education (post-graduate schools);

(d) Post-secondary schools.

204. The number of primary school graduates starting further education in post-primary schools (excluding special schools) in the years 1989-92 looked as follows:

Specification	1989	1990	1991	1992	
				Total	Girls
Number of primary school graduates (thousands)	550.2	570.2	595.1	601.7	296.9
Percentage of graduates entering post-primary schools:	95.8	94.7	94.1	95.0	96.0
- basic vocational schools	50.3	46.3	42.9	41.9	29.5
- secondary schools incl.	45.5	48.4	51.2	53.1	66.5
general secondary schools	21.3	22.8	26.1	26.4	38.3
vocational schools	24.2	25.6	25.1	26.7	28.2

205. The proportion of youth learning in secondary schools has increased as the proportion of youth enrolled in vocational schools has decreased. This is the result of the Government's educational policy which aimed at increasing the scope of secondary education and eliminating vocational schools whose curricula are not adapted to the needs of the labour market.

206. Among pupils and graduates of vocational schools technical subjects are the most popular. In recent years they were chosen by about 60 per cent of pupils and graduates of such schools. The second place is occupied by pupils and graduates in economic subjects (their share is increasing) and the third place by pupils and graduates of agricultural subjects and forestry.

207. In theory, primary school graduates living in rural areas have equal opportunities with graduates living in urban areas as regards further education in post-primary schools and as to the choice of direction of such education. However, the proportions of enrolment in these schools are unfavourable for inhabitants of rural areas. While on average, at the national level, over 26 per cent of primary school graduates are enrolled in secondary general schools, the proportion of primary school graduates from rural areas is about 16 per cent. Basic vocational schools admitted in 1991 about 56 per cent of graduates living in rural areas, while the national coefficient was about 43 per cent. Almost 20 per cent of primary school graduates resident in rural areas chose agricultural schools.

208. Among the reasons for disproportions in the participation of rural and urban children in further schooling at the secondary level we should mention limited possibilities of transport to certain secondary schools situated in towns, lack of boarding schools and the high costs of stay in boarding schools.

209. The following table shows the number of pupils and graduates of vocational school, by field of study:

Field of study (% of total studying)	Pupils				Graduates			
	1980/81	1990/91	1991/92	1992/93	1980/81	1989/90	1990/91	1991/92
Total (thous.)	1 833.0	1 767.3	1 774.1	1 793.4	520.4	431.2	444.6	463.2
Technical	59.6	59.4	59.5	59.7	60.3	60.5	60.1	60.9
Agriculture and forestry	12.8	9.2	9.1	9.1	13.2	8.7	8.4	8.0
Economics	17.4	17.7	18.6	20.7	17.9	18.5	18.5	19.0
Education	2.1	3.6	2.9	1.4	2.3	4.3	4.4	4.2
Health service	4.3	5.1	4.8	4.0	4.9	4.8	4.6	4.8
Artistic	3.0	3.7	3.7	3.5	1.2	1.8	1.8	1.8
Multi-occupational	0.8	1.3	1.4	1.6	0.2	1.4	2.2	1.3

Educational and vocational guidance

210. Article 28 of the Convention imposes upon States parties the obligation to organize educational and vocational information and guidance. The following educational institutions perform tasks in the field of vocational orientation and guidance:

- Main Methodical Centre for Educational and Vocational Guidance;
- Educational and vocational counselling centres, psychological, pedagogical and other special counselling centres;
- Primary and post-primary schools.

211. The tasks of the Main Methodical Centre for Educational and Vocational Guidance comprise, inter alia:

- Elaboration of programmes of classes facilitating the choice of (vocational) career by young people as well as classes stimulating vocational maturity;
- Elaboration of methods of appraising pupils' interests and special abilities;
- Establishment of a data bank concerning vocational education (public schools) and health requirements to be fulfilled for starting education and for performing a given occupation;
- Collection of data on institutions organizing special vocational training.

212. Guidance centres are obliged, in accordance with article 2, item 4, of the Education Law of 7 September 1991, to provide assistance to pupils in their choice of field of study and profession and to render special psychological and pedagogical assistance to children, parents and teachers. The centres perform the following tasks in the field of vocational orientation and guidance:

- Dissemination of information on factors influencing the choice of profession, field of study and employment by young people, parents and teachers;
- Providing special consultations for organizers of vocational orientation in schools, psychologists of special schools and teachers in schools and other educational institutions in matters connected with pupils' preparation for their choice of occupation, field of further study or employment;
- Making available information to schools and disseminating information helpful in taking decisions on the choice of occupation by young people and their parents;

- Counselling for children having particular difficulties in the process of taking decisions concerning their choice of profession, field of further study or employment, on the basis of special studies;

- Qualifying children with deficiencies of sight, hearing, motor deficiencies or who are chronically ill for generally available post-primary schools;

- Counselling young people aged 15 to 17 years on the transition from school to work;

- Consulting with a psychologist of a special primary school concerning applications for vocational training from children completing vocational school or submitting such applications to school administrations if no psychologist is employed in a given school.

213. Educational and vocational counselling centres issued in the school year 1991/92 about 25,000 decisions qualifying pupils included in special care groups for education in post-primary schools. They also issued about 6,000 applications for exams qualifying for post-primary schools. Courses have been organized for about 40,000 pupils of grade VIII and the last grade of secondary school to advise them on their choice of occupation. Vocational information and advice was rendered to about 200,000 pupils and their parents. In accordance with the executory acts to the Education Law schools are also obliged to enable graduates to consciously choose further fields of study. Tasks in the field of vocational orientation as well as psychological and pedagogical guidance are performed by form masters or school pedagogues and psychologists.

214. Provisions of the Education Law and executory acts issued on the basis of this Law have been formulated in such a way as to allow parents to influence the types of rewards and penalties applied against children and a procedure for appealing against such penalties. Penalties infringing a child's personal inviolability and human dignity are prohibited in accordance with paragraph 36, item 1, of the model statute of a public school for children and youth. The Education Law imposes on a teacher the obligation to be guided in his actions by the well-being of pupils, concern for their health and protection of their personal dignity (art. 4).

International cooperation in the field of education

215. Paragraph 3 of article 28 of the Convention is implemented in Poland through the active participation, inter alia, in the educational programmes of the Council of Europe and UNESCO. In the framework of this cooperation we also propose that these organizations undertake new initiatives corresponding to the specific needs of the Central and East European countries.

216. The Ministry of National Education participates in the work of the Committee on Education and the Standing Conference on University Problems of the Council of Europe. The work of the Committee on Education, in which Poland participates, focuses on such projects as:

- Language learning and European citizenship;

- A secondary education for Europe;

- Adult education and social changes.

217. Participation of representatives of Poland in international symposia, conferences or workshops contributes to the exchange of information, opinions and appraisals which favours mutual appreciation of educational problems.

218. Poland is also gradually developing cooperation in the field of the so-called service activities of the Committee on Education, and particularly:

- The Teacher Bursaries Scheme;

- The European Schools Day Competition;

- The EUDISED database concerning research in the field of education.

219. A training offer of the Teacher Bursaries Scheme, which included special workshops for teachers, was very helpful in professional skills' development of our pedagogic staff and favoured dissemination of modern teaching methods and techniques.

220. The cooperation with UNESCO in the field of education is carried out in the framework of:

- Cooperation for Reinforcing the Development of Education in Europe Programme (CORDEE), which aims at adjustment of basic education and training for teachers to the changing socio-political situation in Central and East European countries;

- Associated Schools projects, including:

  - UNESCO summer camps for school youth;

  - Baltic Sea project, in the framework of which foreign teachers participate in Polish culture courses organized in Cracow;

  - Bilateral contacts between associated schools, which result in valuable initiatives such as the UNESCO programme Chernobyl, which is designed to promote ecological education.

221. Pupils with particular talents in the fields of mathematics and natural sciences have an opportunity to confront their knowledge with that of their contemporaries in other countries through participation in international scientific contests: mathematical, physical, chemical, biological and in the Latin language. Costs of travel to these contests are covered by the Ministry of National Education.

Directions of education

222. Polish legislation also complies with article 29 of the Convention. The Education Law and its executory provisions contain regulations concerning the necessity of adjusting the contents, methods and organization of teaching to the psycho-physical abilities of pupils, caring for particularly talented pupils and allowing them to follow individual education programmes and to complete school in a shorter time. A school should provide a child with the conditions necessary for his/her development and prepare him/her for fulfilling family and citizenship duties on the basis of the principles of solidarity, democracy, tolerance, justice and freedom.

223. Scientific and teachers' groups and parents have submitted critical comments on school curricula. Objections have been raised as regards overloading of programmes with encyclopedic knowledge, lack of opportunities for individualized teaching, overburdening of pupils, etc. In 1990 the Ministry of National Education reviewed general education programmes and reduced their contents. In 1992 temporary programme minima were elaborated for general subjects. Activities have been started to introduce a reform of general and vocational education programmes. Minimum standards will be elaborated to serve as a basis for curricula and to allow teachers a certain freedom in determining their programmes. Minimum standards will also be prepared for all the education levels.

224. In May 1993 the Government approved a programme titled "Good and modern school - continuation of educational transformations". The programme determines the State's guarantees in the field of pupil/student education, programme directions and legislative amendments for the near future. The programme also indicates the need for changes to be introduced to the education management and financial systems and to the legal status of teachers.

225. These activities aim at ensuring that the education system:

- Is characterized by universal availability of educational services for children and youth, corresponding to their age and attained development level;

- Ensures permeability between different education levels;

- Creates opportunities for youth with the appropriate predispositions and aspirations to acquire secondary and higher education;

- Is supported by the activity of local communities and takes into account their needs;

- Immediately responds to transformations in the sphere of civilization and to social, economic (including labour market) and cultural needs;

- Guarantees subjectivity of students and teachers and ensures significant parents' participation in development of the educational and didactic process;

- Provides equal educational opportunities to children and youth from various environments;

- Provides educational opportunities for disabled children and youth and children requiring special educational care;

- Provides children and youth with favourable conditions for preserving and maintaining health and with benefits in the field of preventive health care;

- Provides society as a whole with permanent education opportunities at all the levels and in various forms.

226. The Educational Law and its executory acts created a formal basis for increasing the scope of schools' independence in defining their programmes and in organizational matters. The scope of independence is at present reduced due to lower budgetary resources assigned to education. However, it is possible to develop a child's personality and talents as well as his/her mental and physical abilities:

(a) In public schools through adjustment of school requirements to the psycho-physical abilities of a pupil, the organization of individual teaching and extra lessons;

(b) Through the organization of special schools for children with impaired physical and mental development, socially maladjusted or chronically ill children;

(c) Through the organization of artistic schools as well as sport schools and forms;

(d) Through the possibility of introducing various profiles of general teaching in a general secondary school (profiles are determined by a school director in collaboration with a school board) and the possibility of choosing the field of further study in various types of vocational schools after graduating from primary school.

227. The preamble to the Education Law emphasizes the need to develop the child's respect for human rights and fundamental freedoms. It reads as follows:

"Education is in the Republic of Poland a common property and is guided by principles contained in the Constitution of the Republic of Poland and in recommendations of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention

on the Rights of the Child. Education - respecting the Christian system of value - takes for its basis the universal principles of ethics. Education aims at developing youth's feeling of responsibility, love of the motherland and respect for Polish cultural heritage with immediate openness to European and world cultural values."

228. Polish legislation respects the principle that individuals and bodies are free to establish and direct schools and educational centres. Individuals and legal persons may establish and direct:

- Non-public schools, after their registering in the office of a school superintendent appropriate from the standpoint of school's location;

- Public schools, after being granted permission by a school superintendent. To receive permission the school must comply with conditions and standards specified in the Education Law and its executory acts.

229. Non-public schools may be granted the powers of public schools on the basis of a school superintendent's decisions, which means that certificates issued by these schools are equivalent to certificates issued by public schools. Non-public kindergartens are entitled to subventions from local budgets and non-public primary and post-primary schools receive subventions from the State budget. Subventions for non-public schools amount to 50 per cent of current expenditures of public schools of the same type, per pupil. Public schools run by individuals or legal persons are granted subventions at the rate of 100 per cent of current expenditures in public schools run by a local government (gmina) or from the State budget, per student.

230. The table below presents statistics concerning the number of primary schools run by governmental administration and the number of pupils.

Specification	Schools	Pupils	
		Total	Girls
Academic year 1991/92	1 115	380 211	182 463
Academic year 1992/93	2 571	877 834	426 069
Schools run by:			
Local Governments	2 328	859 419	417 815
Voluntary organizations	166	13 564	6 010
Religious organizations	12	1 145	583
Other	65	3 706	1 661

231. The learning conditions in non-public schools are diversified. The number of students per school, classroom, teacher and form in schools run by the units of territorial self-government are similar to those of State-run schools and is much higher than in non-public schools run by voluntary, religious and other non-governmental organizations.

232. In the school year 1992/93 the number of students attending non-public general secondary schools was 23,400, including 11,200 in 134 general secondary schools run by voluntary organizations. Non-public secondary general schools accounted for 13.7 per cent of all general secondary schools and their students accounted for 3.9 per cent of the total number of students. As in the case of primary schools, indicators determining learning conditions in non-public schools are more favourable than in public schools.

233. The number of vocational non-public schools functioning in the school year 1992/93 was 179, 66 of them run by voluntary organizations including 24 schools run by the Union of Vocational Development Institutions.

Leisure, recreation and cultural activities

234. Poland recognizes the right of the child to rest and leisure, to participate in cultural life and the arts.

235. School lessons are organized five days a week. The rate of didactic activities is adjusted to the child's age. Organization of the school year takes into account time off in the period of State holidays, two weeks in winter and two months of summer holidays.

236. The right of the child to develop his/her interests and talents and to cultural education is guaranteed by the Education Law of 7 September 1991. The cultural education of the child is organized by:

(a) Schools, in the form of compulsory and optional lessons and mainly extra classes (artistic groups and various circles). School boards and school directors are responsible for these activates;

(b) Extra-school educational institutions, that is: youth cultural clubs and centres, centres of extra-school activity, under a school superintendent;

(c) Cultural centres under the Ministry of Culture and Arts.

237. Cultural education finds its reflection in the underlying principles, aims and contents of education determined separately for different levels of education, types of school and subjects.

238. Cultural education in the system of extra-curricular and extra-school activities aims at:

- Prevention sensu largo;

- Promotion of talented children;

- Therapy and pedagogic compensation for groups of special concern.

Implementation of these goals is carried out through students' preparation for active participation in culture, development of their aesthetic sensitivity and cultural activity in all fields of culture and art, literature, theatre, film, photography, fine arts, music and folklore.

239. According to estimates, in 1992 the number of pupils actively participating in amateur artistic activities organized and directed by schools was about 400,000. The number of children participating in extra-curricular activities, increasing their knowledge of theatre or music (including activities organized by schools in collaboration with professional cultural institutions) was similar.

240. As an important element in disseminating culture and enriching the school artistic movement we should mention the system of presentation of artistic output together with the exchange of experiences and the professional development of teachers. Most of these activities are, in full or in part, financed from the State budget.

241. The Ministry of National Education issues a directory of events organized for children and school youth, which contains the list of all forms of presentation of pupils' non-didactic achievements. This rich offering (72 artistic events in the school year 1992/93) creates opportunities for and participation of pupils, children's groups and teams with different interests, passions and achievements in all areas of culture. These events favour the development and dissemination of pupils' interests, develop their needs and habits, and promote their cultural activity.

242. Participants in various competitions, reviews, festivals, exhibitions (at the school, voivodeship and national level), having the character of open events, engage the whole school community.

243. According to the data of the Main Statistical Office, at the end of 1992 the number of extra-school educational centres equalled 391. They implemented programmes of cultural education for children and school youth, organizing 5,928 artistic groups (circles) for 101,153 participants. They included:

- 4,157 artistic circles in youth cultural centres (137) for 67,538 pupils;

- 1,237 artistic circles in extra-school centres (111) for 24,704 pupils;

- 534 artistic circles in youth centres (youth "palaces") for 8,911 participants.

244. The total number of circles and groups functioning in extra-school educational centres was 15,911 (artistic, technical, scientific, sport, etc.) with the participation of about 487,500 children and youth. As compared with 1990 the number of institutions organizing such activities and the number of participants considerably decreased, due to a drop in the level of State budget expenditures assigned to education (in 1990 - 20,416 various kinds of circles functioned with the participation of about 600,000 persons).

245. At present Poland seeks new organizational and financial solutions to protect this type of activity. For example, attempts are being made to unite the efforts of the Ministries of Education and Culture, local authorities and parents.

246. Wide cultural activity, in which children may participate, is organized and carried out by the Ministry of Culture and Art on the basis of the Law on organization and performing of cultural activity of 25 October 1991.

247. In July 1991 at the initiative of the Ministry of Culture and Art a document entitled "Cultural education of children and school youth - situation, dangers and perspectives" was elaborated. The document has been signed by the Minister of Culture and Art, the Minister of National Education and the President of the Committee for Radio and Television and is being implemented. It constitutes the basis for activities in the field of cultural education of children and school youth, carried out at present by the Ministry of Culture and Art.

248. Children's participation in culture is also favoured by professional cultural institutions:

- 9,936 public libraries with collections of 135,687,600 books and 918 sections for children and youth;

- 358 pedagogic libraries with 13,727,700 books;

- 21,538 school libraries with 15,790,100 books;

- 10,300 librarian centres, including 8,467 in rural areas;

- 557 museums organizing 25,111 classes for 647,300 pupils;

- 145 theatres and musical institutions, including 60 dramatic theatres, 27 puppet theatres, 9 opera houses, 10 musical theatres, 21 philharmonic societies, 10 orchestras, 2 song and dance groups;

- 960 cinemas;

- 868 cultural institutions ("houses"), 1,475 cultural centres, 592 cultural clubs, 1,167 day-rooms (with 12,091 artistic groups and 120,332 programmes of cultural education in all these institutions);

- Centre of Art for Children in Poznań - an interdisciplinary institution, stimulating the development of professional artistic activity for children;

- Centre of Theatrical Education in Gdańsk, which promotes initiatives at the national level in the field of theatrical education;

- Centre of Cultural Animation, organizing professional development for culture monitors working with children and school youth, etc.

249. The network of the above-mentioned centres, although rich and diversified, is not able to guarantee the right to cultural education to all children. The crisis in public resources is reflected in the lower number of premières in artistic institutions and in the higher prices of tickets. In such institutions as cultural centres commercialization of many forms of activity has been noted, which has resulted in increasing drop-out rates in music, ballet, fine arts and film classes. Similar problems are encountered by schools and other institutions and individuals organizing various forms of cultural and artistic activity for children.

250. Legislative activities will be undertaken to increase State support for cultural and artistic activity of children and youth.

251. Implementation of article 31 of the Convention, concerning the right to recreation, is in Poland legally guaranteed by article 2, item 3, of the Education Law of 7 September 1991. No executory acts have been issued so far to specify kinds, organization and principles of activity of public centres for children and school youth recreation.

252. Non-public recreational centres run by establishments, youth organizations, associations and tourist enterprises account for over 70 per cent of the total number of recreational centres organized during winter and summer holidays.

253. In recent years a decline in the number of students taking advantage of various forms of organized recreation was noted. As a factor contributing to the worsening of the situation in this regard we should mention the difficult economic situation of the country and of many families. The economic recession, the collapse of industry, the budget deficit and the decline in the incomes of Polish families all have contributed to a reduction in the financial means available for this purpose. Local initiatives of trade unions, charitable organizations and foundations do not satisfy the needs.

254. The number of children and youth engaging in recreational activities exceeded 1.2 million, including over 650,000 in camps and other forms of recreation organized outside their place of residence and over 560,000 in recreational activities organized near their place of residence.

255. These data concern forms of recreation organized by the education administration, schools, establishments, youth organizations and associations as well as by tourist enterprises. They do not cover family recreation and activities of the Catholic Church and religious organizations in this field.

256. Camps and other forms of recreation organized outside the place of residence were attended only by 8.8 per cent of children and youth attending schools (7.3 million), which means a decline of about 12 per cent (90,000 participants) as compared with 1991. Recreational activities organized near the place of residence were also reduced by about 1 per cent. This means that the situation was most unfavourable as compared with the last 20 years.

257. Resigning of the protective role of the State in the period of transformation brings about unfavourable effects also for the recreation of Polish children and youth.

258. School superintendents, particularly in ecologically threatened regions, search for financial means from many sources for organization of the so-called "green schools". For example, children and youth from Silesia leave for several weeks for recreational centres or health resorts during the school year. In this period normal classes are organized besides various forms of active recreation. This kind of activity has not yet been covered by the law.

VIII. SPECIAL PROTECTION MEASURES

Refugee children

259. Poland has a long tradition of hospitality and tolerance for visitors from other countries. After the Second World War Poland in principle was not a receiving country for refugees. Only small immigrant groups settled in Poland, including Greeks, Vietnamese, Palestinians, Kurds and Chileans. Their numbers went from several hundreds to several thousands, and the majority have already returned to their country of origin.

260. The functioning of the institution of refugee protection in post-war Poland is connected with the sending back by the Swedish Immigration Office to Polish territory in 1990 of several hundred nationals of African and Arab States. They were accorded the protection of the Polish authorities (directly through the Polish Red Cross), accommodation, board and free medical care. The situation had the character of a precedent because no procedures existed to apply in such case. The issue was addressed by the Presidium of the Government on 26 March 1990 which determined the framework and directions of the activities of the Polish public authorities in such situations:

(a) The Interministerial Group for Refugees was established (on 22 November 1990 transformed into a Commission);

(b) Contacts were established with the United Nations High Commissioner for Refugees;

(c) The question of Poland's accession to the Convention relating to the Status of Refugees, the so-called Geneva Convention of 1951, was considered.

261. About 800 of these people were seeking refugee status and 640 of them formally applied for such status. Positive opinions concerning 320 of them were expressed by mission of the High Commissioner. The stay of this group of foreigners on Polish territory was not legalized until 1992, due to the lack

(since the end of 1991) of provisions governing refugee status in Polish legislation and the decision on the 1951 Convention, which was signed by the President of the Republic of Poland on 6 September 1991.

262. A permanent decision-taking centre determining the procedure in matters connected with refugee protection was established by the Regulation of the Prime Minister. It started its activities on 1 January 1991 as the Office of the Commissioner of the Minister of Interior for Refugees (since 2 February 1993 the Office for Migration and Refugees) in the framework of the Ministry of Interior.

263. New legal solutions allowed for rendering effective assistance to foreigners staying in Poland who fulfil the criteria of the Geneva Convention of 1951 and for promoting legal regulations specifying the system of refugee protection on the territory of the Republic of Poland.

264. The most important activities carried out in the years from 1991 to 1992, beside the above-mentioned, included:

(a) Introduction of appropriate provisions to the amended Law relating to foreigners of 1963, which allow for according refugee status by an administrative decision (January 1992) and for full legalization of stay;

(b) Establishment of a centre for refugees in Dębak near Podkowa Leśna (April 1992);

(c) Entering into working contacts and cooperation with governmental and non-governmental organizations in matters connected with the stay and integration of refugees.

265. As an important event we should also mention creation of the Liaison Office of the High Commissioner for Refugees (in Warsaw, in February 1991).

266. In 1992, 590 people (including children) applied for refugee status; 84 people received positive decisions, 77 people negative decisions and 303 people still await a decision. In the period from 1 January 1993 to the end of June 1993 a total of 221 people (with children) - mainly from the territory of the former Yugoslavia - applied for refugee status. At present 230 people are staying in the Dębak centre, including 226 people awaiting a decision. The majority of people recognized as refugees and being accorded Geneva travel documents and legalization of stay have become independent and do not apply for material and financial assistance.

Situation of children and families seeking refugee status

267. In accordance with the Constitution of the Republic of Poland of 1992, the Law concerning foreigners of 1963 (with amendments of 1991), the Organizational Statute of the Office for Migration and Refugees and the Statute of the Dębak centre, legal personality is accorded to "refugees". There are no legal regulations concerning refugee children and families as separate legal subjects. Children and families are only marginally mentioned in provisions concerning the protection of refugee rights of adults. However, in practice the rights of children and families are fully protected.

268. A similar objection may be raised with regard to the Geneva Convention of 1951 and the Protocol of 1967. The final document of the United Nations Conference of Commissioners, who adopted the Geneva Convention in 1951, regulates refugee problems without distinguishing minors. Protocol I Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts proclaims international humanitarian law with regard to women and children - protection for children evacuated from areas affected by the warfare. In conformity with the Convention on the Rights of the Child the principle of a "child's well-being" is applied according to the traditional understanding of a minor only as a subject of protection.

Situation of children and families in the period of integration and assimilation

269. A refugee child (migrant) with the legalized right to permanent residence in the territory of the Republic of Poland and after his/her parents have received identity cards (on which a child is inscribed up to the moment of attaining the age of 16 years in accordance with the Law relating to foreigners), is subject to Polish legal acts guaranteeing a child's protection (he/she is treated as the subject of protection), such as the Civil Code, Family and Guardianship Code of 1964, the Law concerning procedure in juvenile cases of 1982, the Penal Code of 1969, the Labour Code of 1974 and the Education Law of 1991.

270. The above-mentioned legal acts provide for legal equality of all children (although sometimes the practice is different), including children born out of wedlock, protection of life from the moment of conception, the right to maintain one's identity, nationality and name, the right to be brought up in a family. They also determine parents' obligations towards the child, including the right of the child to personal contact with both parents, parents' responsibilities as regards care for the child's health and safety, moral education and property. They provide for penal liability in the case of physical or mental maltreatment. In accordance with the Convention the child has the right to State protection and assistance in the case of deprivation for any reason of his/her family environment. Besides, the State is responsible for providing the child with health protection, rehabilitation and - in the case of disability - various forms of social insurance. These questions are regulated in detail by the Orders of the Council of Ministers, Minister of Health and others. The Polish child - and as a result of the efforts of the Office for Migration and Refugees, also a refugee child (who is covered by all the legal acts) - has definite rights, including the right to education (free at the level of primary school), access to sources of information, the right to participate in culture, recreation and play.

271. All refugee children are covered by compulsory schooling (the basis of placement: letter of the Under-Secretary of State at the Ministry of National Education of 21 August 1991, No DKO-0156-11112/91), financed from the State budget.

272. It is a well-known fact that the Government of Poland, guided by the principles and intentions of the joint declaration of UNHCR and UNICEF of 14 August 1992, accepted for temporary stay in Poland the group

of 926 children with their guardians (mainly mothers) and teachers, evacuated from Osijek (Croatia) under the protection of Polish Red Cross personnel, Office of the Commissioner of the Minister of Interior for Refugees, Police and Health Service. They arrived in Poland on 12 October 1992. Every child has been accorded an identification card and accommodated in one of 11 health resorts or rehabilitation and recreational centres in Bielsko Biała or Jelenia Góra voivodeships. For younger children kindergartens have been organized and the older ones continue their education in the Serbo-Croatian language in primary and post-primary schools. They participate in cultural events and sport activities. They are covered by permanent free medical care and their parents have guaranteed contact with them during the whole period of their stay in Poland.

273. For coordination of activities of the ministries, institutions and organizations concerned, local commissioners have been appointed for children from Bosnia and Herzegovina, cooperating with the Office for Migration and Refugees of the Ministry of Interior and with local branches of the Polish Red Cross. The whole activity is financed from the State budget. The number of emigrants from the territory of the former Yugoslavia is still growing, caused mainly by family reunification.

Children in conflict with the law

274. A separate part of the Polish legal system concerns procedure in cases of juveniles showing signs of misbehaviour or who committed a punishable act: the Law of 26 October 1982 concerning procedure in juvenile cases, which entered into force on 13 May 1983. A juvenile who has committed a criminal offence after reaching the age of 13 years and before attaining the age of 17 years may be subject to penal proceedings.

275. It is a general principle that such proceedings are carried out before a special court - family court. All actions in these proceedings (such as hearing of a juvenile and witnesses) are taken by a family judge, who may only request certain actions of the police or a court guardian (art. 35). In these proceedings a juvenile has the right to a defender (arts. 36 and 49). A court is obliged to provide not only the parents or a guardian of a juvenile but also a juvenile above 13 years of age himself/herself with copies of all decisions taken in these proceedings. The juvenile who has been convicted of a criminal offence cannot be subject to punishment: only educational or reformatory measures are allowed (art. 5).

276. The guiding principle in all proceedings is the well-being of a juvenile, understood as introduction of favourable changes to his/her personality and behaviour which would allow for his/her correct development and functioning in personal and social life. For this reason, measures applied with regard to a juvenile have a preventive and educational character and they are not treated as repression.

277. The court may, inter alia, apply such measures as a reprimand, imposing on a juvenile an obligation of definite behaviour or supervision of a court guardian. It may also place a juvenile in an institution dealing with vocational preparation, in an educational establishment and - in strictly specified situations - in a medical institution. The court may place a

juvenile in a reformatory if there has been serious misbehaviour and the circumstances and character of the committed offence justify such a decision, particularly if educational measures applied earlier have not brought about the required effects. The parents or guardian and the juvenile himself/herself may appeal the court's decision on the application of educational or reformatory measures to a higher court.

278. In 1991, the courts handed down final decisions on the application of educational or reformatory measures in relation to 12,050 juveniles who committed criminal offences. Most often courts decide on educational measures to be applied in the juvenile's family environment (about 90 per cent). Among them the following should be mentioned: supervision by a court's guardian (in 1991 with regard to 5,045 juveniles); responsible supervision by parents (2,995 cases); reprimand (1,916 cases); 601 juveniles were placed in an educational institution and 882 juveniles were conditionally sentenced to reformatory while 405 juveniles were placed in a reformatory.

279. When deciding on application of a given educational or reformatory measure the court does not specify the period for which this measure is applied, because this period depends on the course of the resocialization process. Generally, educational measures are applied up to the moment a juvenile attains 18 years of age; a stay in a reformatory may even be prolonged to 21 years of age.

280. A person who has committed a criminal offence after reaching the age of 17 years may be subject to penal liability, for example to the penalty of deprivation of liberty. However, such a person is treated as a juvenile and thus is placed in a penal institution for juveniles. Polish legislation does not provide for corporal punishment or for life imprisonment. In exceptional circumstances capital punishment is admissible; however, it may not be applied with regard to a person who at the moment of a criminal offence has not reached the age of 18 years (art. 31 of the Penal Code).

Children in situations of exploitation

281. Polish legislation fully complies with article 32 of the Convention. The Labour Code categorically prohibits employment of persons who have not reached the age of 15 years. Exceptionally, at the request of a legal guardian, a person who has reached the age of 14 years and has not attained the age of 15 years may be employed for purposes of vocational training. However, the threat of infringing minors' rights may exist in the period of development of individual entrepreneurship, family and small business. Supervision of employment conditions in private establishments by the State Labour Inspection is particularly difficult.

282. Article 33 of the Convention pays attention to the necessity of taking appropriate measures to protect children from the illicit use of narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances.

283. Four models of intoxication are popular among Polish youth:

- opiate model - injection of poppy products;
- cannabis model - connected with smoking of hemp (smuggled, cultivated on one's own use or wildly growing);
- drug model - use of pharmacological drugs for non-medical use.

The extent of drug abuse depends on the age and type of school. In absolute figures pupils in primary schools aged from 13 to 16 years, are in the majority. However, the highest proportion of children affected are in vocational schools, including basic vocational schools. More than 80 per cent of revealed cases of youth drug abuse have an incidental character. Most of young people engaged in drug abuse come from families not guaranteeing harmonious psychical, emotional and social development for their children.

284. Activities connected with preventing drug abuse among young people and reducing the effects of this phenomenon have been specified by the Law of 31 January 1985 concerning drug abuse prevention (Dziennik Ustaw No. 4 of 1986, Text 15). Article 2 of this Law provides:

"Tasks in the field of drug abuse prevention are performed through:

(1) educational and preventive activity,

(2) control of means that may lead to drug abuse,

(3) medical treatment, rehabilitation and resocialization of drug addicts".

285. Different ministries ensure, according to their competence, education and training for the necessary number of specialists in drug abuse prevention. The governmental administration and other competent organs and institutions will undertake activities aimed at the development and promotion of various forms of information and research to enlighten society on the noxiousness of drug abuse. The Minister of National Education is obliged to include problems of drug abuse prevention in the curricula of schools of all the types, to ensure preventive and educational care of young people threatened with drug abuse to carry out - in the framework of the education system - separate forms of preventive and educational activity for these young people.

286. At the request of a legal guardian, ascendants, siblings or educational and vocational counselling centres a court may refer an addict who is under 18 years of age, for his/her well-being, to compulsory medical treatment and rehabilitation (art. 25 of the Law).

287. On the basis of the Law concerning drug abuse prevention, an Order was issued on 29 March 1986 concerning separate forms of preventive activities for young people threatened with drug addiction. The Order determines tasks which should be performed by schools and educational centres to prevent drug abuse

among young people. It also establishes a system of special assistance in separate organizational forms and preventive centres. In the school year 1991/92 more than 20,000 students were covered by preventive and educational assistance in this regard.

Children belonging to minority or indigenous groups

288. Polish educational legislation conforms with the spirit and the letter of article 30 of the Convention as regards the rights of children of ethnic minorities to develop the feeling of their national, cultural and language identity. Article 13 of the Education Law of 7 September 1991 provides: "A public school allows to pupils preserving of their national, ethnical and religious identity, in particular through the lessons of language and their own history and culture". In accordance with paragraph 2 of this article, "at the request of parents such lessons may be organized in separate groups, forms or schools, in groups and forms with supplementary learning of language or in inter-school groups".

289. These statutory educational rights of ethnic minorities are implemented at all levels of education, starting from kindergarten to primary and secondary schools of all types.

290. The Order of the Minister of National Education of 24 March 1992 (Dziennik Ustaw No. 34 of 17 April 1992) specifies this provision, indicating means of implementation of the educational rights of ethnic minorities and mechanisms coordinating educational State policy in this field. Paragraph 2 of the Order provides: "Supervision of the correct observance of the educational rights of national and ethnic minorities is exercised by the school superintendent". In accordance with paragraph 3, "Teaching of the mother tongue for ethnic minorities is organized on principles of voluntary participation. It is organized by a director of a school (a kindergarten) at the written application of the children's parents or legal guardians. In the case of children in post-primary schools, declarations expressing the wish to participate in such lessons may be submitted by students." Paragraph 12 provides that "The educational process in schools for ethnic minorities and teaching of classical subjects should serve the aims of respecting the world cultural heritage and maintaining regional traditions and culture".

291. In Poland 7,841 children learn their mother tongue in 139 schools and inter-school groups. Teaching has been organized for Belarusian, Lithuanian, Ukrainian and Slovak minorities.

292. School books for language teaching for minorities are completely financed by the State and provided to children free of charge.

293. In offices of the school superintendent in whose territory schools for minorities function, commissioners have been appointed to supervise the organization and level of these schools and their cooperation with local branches of socio-cultural organizations of minorities.

294. It is worth mentioning that Polish legislation guarantees educational rights to ethnic minorities with no conditions as to the guarantee of these rights to the Polish minority in neighbouring countries.

Final remarks

295. The activists of the Committee on the Protection of Children's Rights demand including in the Convention the right of siblings deprived of their natural family to non-separation in the case of their placement in educational institutions.

296. The Convention is a document which widely describes the rights of the child but does not point to his/her duties. The Convention states that "the child, by reason of his physical and mental immaturity, needs special safeguards and care". For this reason the separation of a child's rights from his/her duties may hinder the process of directing his/her proper psycho-social development, thus being to his/her disadvantage.